SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

SUBJECT: <u>Professional Services: PS-4388-09/VFT - Design of Minor Projects with</u> Construction Costs less than \$1,000,000.00

DEPARTMENT: County Manager Office **DIVISION:** Purchasing and Contracts

AUTHORIZED BY: <u>Joe Forte</u> CONTACT: <u>Vagillia Taylor</u> EXT: <u>7122</u>

MOTION/RECOMMENDATION:

Approve the negotiated rates and award PS-4388-09/VFT – Design of Minor Projects with Construction Costs less than \$1,000,000.00 to HNTB Corporation of Lake Mary, Florida; Inwood Consulting Engineers, Inc. of Oviedo, Florida; Pegasus Engineering of Winter Springs, Florida; Professional Engineering Consultants, Inc. of Orlando, Florida; and Reynolds, Smith and Hills, Inc. of Orlando, Florida (Estimated Annual Usage Amount of \$900,000.00).

County-wide Ray Hooper

BACKGROUND:

PS-4388-09/VFT will provide various professional services, including but not limited to, construction plan preparation and environmental and drainage permitting for minor projects. Some projects will require preliminary and final design phases and intensive sub-basin and environmental permitting.

On October 13, 2009, the Board approved the ranking and authorized staff to negotiate with HNTB Corporation of Lake Mary, Florida; Inwood Consulting Engineers, Inc. of Oviedo, Florida; Pegasus Engineering of Winter Springs, Florida; Professional Engineering Consultants, Inc. of Orlando, Florida; and Reynolds, Smith and Hills, Inc. of Orlando, Florida. The Award Agreements include the negotiated rates from each firm as Exhibit C within their individual Master Agreements. The term of these Master Agreements will be for a period of three (3) years, with two (2) renewal periods not to exceed one (1) year each. The backup documentation includes the Multiplier Computation sheets for each of the five (5) Consultants.

Authorization for the performance of services by the Consultants under these Master Agreements shall be in the form of written Work Orders issued and executed by the County, and signed by the Consultants. The work and dollar amount for each Work Order shall be negotiated on an as-needed basis for the specific project, and shall be funded within approved budget amounts.

STAFF RECOMMENDATION:

Staff recommends the Board approve the negotiated rates and award PS-4388-09/VFT – Design of Minor Projects with Construction Costs less than \$1,000,000.00 to HNTB Corporation of Lake Mary, Florida; Inwood Consulting Engineers, Inc. of Oviedo, Florida; Pegasus Engineering of Winter Springs, Florida; Professional Engineering Consultants, Inc. of Orlando, Florida; and Reynolds, Smith and Hills, Inc. of Orlando, Florida (Estimated Annual

Usage Amount of \$900,000.00).

ATTACHMENTS:

- 1. PS-4388-09 VFT Award Agreement (HNTB)
- 2. PS-4388-09_VFT Award Agreement (Inwood)
- 3. PS-4388-09 VFT Award Agreement (Pegasus)
- 4. PS-4388-09_VFT Award Agreement (PEC)
- 5. PS-4388-09_VFT Award Agreement (RS&H)
- 6. PS-4388-09_VFT Backup Documentation

Additionally Reviewed By:

County Attorney Review (Ann Colby)

CONTINUING CONSULTANT SERVICES AGREEMENT DESIGN OF MINOR PROJECTS WITH CONSTRUCTION COSTS LESS THAN \$1,000,000 (PS-4388-09/VFT)

THIS AGREEMENT is made and entered into this day	of
, 20, by and between HNTB CORPORATION, duly auth	.0
rized to conduct business in the State of Florida, whose address is 3	00
Primera Boulevard, Suite 200, Lake Mary, Florida 32746, hereinaft	er
called "CONSULTANT", and SEMINOLE COUNTY, a political subdivision of t	he
State of Florida, whose address is Seminole County Services Buildin	g,
1101 East First Street, Sanford, Florida 32771, hereinafter call	ed
"COUNTY".	

WITNESSETH:

WHEREAS, COUNTY desires to retain the services of a competent and qualified CONSULTANT to provide design of minor projects with construction costs less than \$1,000,000 in Seminole County; and

WHEREAS, COUNTY has requested and received expressions of interest for the retention of services of consultants; and

WHEREAS, CONSULTANT is competent and qualified to consultant services to COUNTY and desires to provide professional services according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, COUNTY and CONSULTANT agree as follows:

SECTION 1. SERVICES.

(a) COUNTY does hereby retain CONSULTANT to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto as Exhibit A and made a part hereof. Required services shall be specifically enumerated, described, and depicted in

the Work Orders authorizing performance of the specific project, task, or study. CONSULTANT shall also be bound by all requirements as contained in the solicitation package and all addenda thereto. This Agreement standing alone does not authorize the performance of any work or require COUNTY to place any orders for work.

(b) CONSULTANT may utilize labor categories that are not included in the fee proposal for each Work Order, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. CONSULTANT shall submit a written request to the County's Project Manager for approval of any substitution prior to the utilization of any labor category for service, and the County Project Manager's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

SECTION 2. TERM. This Agreement shall take effect on the date of its execution by COUNTY and shall run for a period of three (3) years and, at the sole option of COUNTY, may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders issued pursuant to this Agreement and prior to the expiration date. Obligations entered therein by both parties shall remain in effect until completion of the work

authorized by the Work Order.

SECTION 3. AUTHORIZATION FOR SERVICES. Authorization for performance of professional services by CONSULTANT under this Agreement shall be in the form of written Work Orders issued and executed by COUNTY and signed by CONSULTANT. A sample Work Order is attached hereto as Exhibit B. Each Work Order shall describe the services required, state the dates for commencement and completion of work, and establish the amount and method of payment. The Work Orders will be issued under and shall incorporate the terms of this Agreement. COUNTY makes no covenant or promise as to the number of available projects or that CONSULTANT will perform any project for COUNTY during the life of this Agreement. COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by COUNTY to be in the best interest of COUNTY to do so.

SECTION 4. TIME FOR COMPLETION. The services to be rendered by CONSULTANT shall be commenced as specified in such Work Orders as may be issued hereunder and shall be completed within the time specified therein.

SECTION 5. COMPENSATION. COUNTY agrees to compensate CONSULTANT for the professional services called for under this Agreement on either a "Fixed Fee Basis" or on a "Time Basis Method". The CONSULTANT shall be compensated in accordance with the rate schedule attached as Exhibit C, which includes all reimbursable expenses. The CONSULTANT shall also be required to execute a Truth in Negotiations Certificate, attached hereto as Exhibit D.

SECTION 6. REIMBURSABLE EXPENSES.

- (a) If a Work Order is issued on a Time Basis Method, then reimbursable expenses are in addition to the hourly rates. Reimbursable expenses are subject to the applicable "Not-to-Exceed" or "Limitation of Funds" amount set forth in the Work Order. Reimbursable expenses may include actual expenditures made by CONTRACTOR, his employees or his professional associates in the interest of the Project for the expenses listed in the following paragraphs:
- (1) Travel expenses in connection with the Project based on Sections 112.061(7) and (8), Florida Statutes, or its successor, and subject to the limitation listed below; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project. Reimbursement for meals, travel, vehicle mileage, tolls, and parking shall not apply to local employees of CONTRACTOR.
- A. Reimbursement for mileage shall be at the rate allowable by the Federal Internal Revenue Services. Reimbursement for local mileage, defined as within a fifty (50) mile radius of the job site, is not allowed.
- B. Car rental reimbursement is limited to compact cars for up to two (2) occupants and intermediate cars for more than two occupants.
- C. Reimbursement for lodging shall be at \$75.00 or the actual expenses for lodging at a "non-resort"-type hotel located in Seminole County, Florida.

- D. Meals shall not exceed:
 - 1. Breakfast: \$6.00 without receipts \$10.00 with receipts;
 - 2. Lunch:
 \$11.00 without receipts
 \$13.00 with receipts;
 - 3. Dinner: \$19.00 without receipts \$27.00 with receipts.
- E. Reimbursement for airfare shall be based on coach rates.
- (2) Expense of reproduction, postage, and handling of drawings and specifications are authorized at actual cost only.
- (3) If authorized in writing in advance by COUNTY, the cost of other expenditures made by CONTRACTOR in the interest of the Project.
- (b) Any reimbursable expenses under this Agreement shall be supported by a source document, such as a receipt or invoice, with the employee's name, project name, and brief explanation of the expense. All reimbursable expenses shall be itemized on the invoices.
- (c) All reimbursable expenses must be allowable, allocable to the contract, and reasonable, as solely determined by COUNTY.

SECTION 7. PAYMENT AND BILLING.

(a) If the Scope of Services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a Fixed Fee Basis. CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the negotiated Fixed Fee amount stated therein.

- (b) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Not-to Exceed amount. If a Not-to-Exceed amount is provided, CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the Not-to-Exceed amount specified in the applicable Work Order.
- (c) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Limitation of Funds amount. CONSULTANT is not authorized to exceed that amount without the prior written approval of COUNTY. Said approval, if given by COUNTY, shall indicate a new Limitation of Funds amount. CONSULTANT shall advise COUNTY whenever CONSULTANT has incurred expenses on any Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount.
- (d) For Work Orders issued on a Fixed Fee Basis, CONSULTANT may invoice the amount due based on the percentage of total Work Order services actually performed and completed, but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.
- (e) For Work Orders issued on a Time Basis Method with a Not-to-Exceed amount, CONSULTANT may invoice the amount due for actual work hours performed, but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.
- (f) Payments shall be made by COUNTY to CONSULTANT when requested as work progresses for services furnished, but not more than once

monthly. Each Work Order shall be invoiced separately. At the close of each calendar month, CONSULTANT shall render to COUNTY a properly dated itemized invoice describing any services rendered, the cost of the services, the name and address of CONSULTANT, Work Order Number, Contract Number, and all other information required by this Agreement.

The original invoice and one (1) copy shall be sent to:

Director of County Finance Seminole County Board of County Commissioners Post Office Box 8080 Sanford, Florida 32772

Two (2) copies of the invoice shall be sent to:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

(g) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from CONSULTANT.

SECTION 8. GENERAL TERMS OF PAYMENT AND BILLING.

- (a) Upon satisfactory completion of work required hereunder and upon acceptance of the work by COUNTY, CONSULTANT may invoice COUNTY for the full amount of compensation provided for under the terms of this Agreement including any retainage and less any amount already paid by COUNTY. COUNTY shall pay CONSULTANT within thirty (30) days of receipt of proper invoice.
- (b) COUNTY may perform or have performed an audit of the records of CONSULTANT after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to CONSULTANT and COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to CONSULTANT may be

determined subsequent to an audit as provided for in subsections (b) and (c) of this Section, and the total compensation so determined shall be used to calculate final payment to CONSULTANT. Conduct of this audit shall not delay final payment as provided by subsection (a) of this Section.

- (c) In addition to the above, if federal funds are used for any work under the Agreement, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of CONSULTANT which are directly pertinent to work performed under this Agreement for purposes of making audit, examiñation, excerpts, and transcriptions.
- (d) CONSULTANT agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at CONSULTANT's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsections (b) and (c) of this Section.
- (e) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (d) of this Section, reveals any overpayment by COUNTY under the terms of the Agreement, CONSULTANT shall refund such overpayment to COUNTY within thirty (30) days of notice by COUNTY.

SECTION 9. RESPONSIBILITIES OF CONSULTANT.

- (a) CONSULTANT shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.
- (b) Neither COUNTY's review, approval, or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement; and CONSULTANT shall be and always remain liable to COUNTY in accordance with applicable law and Section 18 herein for any and all damages to COUNTY caused by CONSULTANT's negligent or wrongful performance of any of the services furnished under this Agreement.

SECTION 10. OWNERSHIP OF DOCUMENTS. All deliverable analysis, reference data, survey data, plans, and reports or any other form of written instrument or document that may result from CONSULTANT's services or have been created during the course of CONSULTANT's performance under this Agreement shall become the property of COUNTY after final payment is made to CONSULTANT.

SECTION 11. TERMINATION.

- (a) COUNTY may, by written notice to CONSULTANT, terminate this Agreement or any Work Order issued hereunder, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of CONSULTANT to fulfill its Agreement obligations. Upon receipt of such notice, CONSULTANT shall:
- (1) immediately discontinue all services affected unless the notice directs otherwise; and
- (2) deliver to COUNTY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process. Provided, however, CONSULTANT shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where CONSULTANT is deprived of the opportunity to complete CONSULTANT's services.
- (b) If the termination is for the convenience of COUNTY, CONSULTANT shall be paid compensation for services performed to the date of termination. If this Agreement calls for the payment based on a Fixed Fee amount, CONSULTANT shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of work, as determined solely and conclusively by COUNTY, contemplated by this Agreement.
- (c) If the termination is due to the failure of CONSULTANT to fulfill its Agreement obligations, COUNTY may take over the work and prosecute the same to completion by other Agreements or otherwise. In

such case, CONSULTANT shall be liable to COUNTY for all reasonable additional costs occasioned to COUNTY thereby. CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of CONSULTANT; provided, however, that CONSULTANT shall be responsible and liable for the actions of its subcontractors, agents, employees, and persons and entities of a similar type or nature of whom CONSULTANT is legally liable under this Agreement. Such causes may include acts of God or of the public enemy, acts of COUNTY in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without any fault or negligence of CONSULTANT.

- (d) If after notice of termination for failure to fulfill its Agreement obligations it is determined that CONSULTANT had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of this Section.
- (e) The rights and remedies of COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.
- (f) CONSULTANT my terminate this Agreement upon written notice to the COUNTY in the event of substantial failure by COUNTY to perform in accordance with the terms of this Agreement; provided, however, COUNTY shall have 14 calendar days from the receipt of the termination notice

to cure or to submit a plan for cure acceptable to CONSULTANT.

SECTION 12. AGREEMENT AND WORK ORDER IN CONFLICT. Whenever the terms of this Agreement conflict with any Work Order issued pursuant to it, the Agreement shall prevail.

SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT. CONSULTANT agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment; upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 14. NO CONTINGENT FEES. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, COUNTY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or

consideration.

SECTION 15. CONFLICT OF INTEREST.

(a) CONSULTANT agrees that it will not contract for or accept

employment for the performance of any work or service with any

individual, business, corporation, or government unit that would create

a conflict of interest in the performance of its obligations pursuant to

this Agreement with COUNTY.

(b) CONSULTANT agrees that it will neither take any action nor

engage in any conduct that would cause any COUNTY employee to violate

the provisions of Chapter 112, Florida Statutes, relating to ethics in

government.

(c) In the event that CONSULTANT causes or in any way promotes or

encourages a COUNTY officer, employee, or agent to violate Chapter 112,

Florida Statutes, COUNTY shall have the right to terminate this

Agreement.

SECTION 16. ASSIGNMENT. This Agreement, or any interest herein,

shall not be assigned, transferred, or otherwise encumbered, under any

circumstances, by the parties hereto without prior written consent of

the other party and in such cases only by a document of equal dignity

herewith.

SECTION 17. SUBCONTRACTORS. In the event that CONSULTANT, during

the course of the work under this Agreement, requires the services of

any subcontractors or other professional associates in connection with

services covered by this Agreement, CONSULTANT must first secure the

prior express written approval of COUNTY. If subcontractors or other

professional associates are required in connection with the services

covered by this Agreement, CONSULTANT shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 18. INDEMNIFICATION OF COUNTY. CONSULTANT agrees to hold harmless, replace, and indemnify COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by CONSULTANT.

SECTION 19. INSURANCE.

- (a) <u>GENERAL</u>. CONSULTANT shall at its own cost procure the insurance required under this Section.
- CONSULTANT shall furnish COUNTY with a Certificate of (1)Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation Liability and Commercial General Liability). COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall state that the Insurer shall endeavor to provide the COUNTY not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by CONSULTANT, CONSULTANT provide COUNTY with a renewal shall replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.
- (2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance

is in full compliance with the insurance requirements of the Agreement. In lieu of the statement on the Certificate, CONSULTANT shall (at the option of COUNTY) submit a sworn notarized statement from an authorized representative of the insurer that the Certificate is being provided in

compliance with the requirements of the Agreement. The Certificate shall

accordance with the Agreement and that the insurance is in full

have this Agreement number clearly marked on its face.

(3) In addition to providing the Certificate of Insurance, if required by COUNTY, CONSULTANT shall, within thirty (30) days after receipt of the request, provide COUNTY with a certified copy of each of the policies of insurance providing the coverage required by this Section.

(4) Neither approval by COUNTY nor failure to disapprove the insurance furnished by a CONSULTANT shall relieve CONSULTANT of its full responsibility for performance of any obligation including CONSULTANT's indemnification of COUNTY under this Agreement.

(b) <u>INSURANCE COMPANY REQUIREMENTS</u>. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Companies issuing policies (other than Workers' Compensation) must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 624.4621, Florida Statutes.

- (2) In addition, such companies other than those authorized by Section 624.4621, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.
- (3) If during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (i) lose its Certificate of Authority; (ii) no longer comply with Section 624.4621, Florida Statutes; or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, CONSULTANT shall, as soon as CONSULTANT has knowledge of any such circumstance, immediately notify COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as CONSULTANT has replaced the unacceptable insurer with an insurer acceptable to COUNTY, CONSULTANT shall be deemed to be in default of this Agreement.
- (c) SPECIFICATIONS. Without limiting any of the other obligations or liability of CONSULTANT, CONSULTANT shall, at its sole expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by CONSULTANT and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) CONSULTANT's insurance shall cover CONSULTANT for liability which would be covered by the latest edition of the standard Workers' Compensation Policy as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. CONSULTANT will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both CONSULTANT and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act, and any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00 (Each Accident) \$1,000,000.00 (Disease-Policy Limit) \$ 500,000.00 (Disease-Each Employee)

(2) Commercial General Liability.

- (A) CONSULTANT's insurance shall cover CONSULTANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.
- (B) The minimum limits to be maintained by CONSULTANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

LIMITS

General Aggregate

Personal & Advertising Injury Limit Each Occurrence Limit Three (3) Times the Each-Occurrence Limit \$1,000,000.00

\$1,000,000.00

- (3) <u>Professional Liability Insurance</u>. CONSULTANT shall carry professional liability insurance with limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).
- (d) <u>COVERAGE</u>. The insurance provided by CONSULTANT pursuant to this Agreement shall apply on a primary basis, and any other insurance or self-insurance maintained by COUNTY or COUNTY's officials, officers, or employees shall be in excess of and not contributing to the insurance provided by or on behalf of CONSULTANT.
- (e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The

Professional Liability insurance policy must be on an occurrence basis or claims-made basis. If a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve CONSULTANT, its employees, or its agents of liability from any obligation under a Section or any other portions of this Agreement.

SECTION 20. DISPUTE RESOLUTION.

- payment obligation arising under this Agreement, the parties agree to exhaust COUNTY dispute resolution procedures prior to filing suit or otherwise pursuing legal remedies county dispute resolution procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code. Contract claims include all controversies, except disputes addressed by the "Prompt Payment Procedures," arising under this Agreement within the dispute resolution procedures set forth in Section 8.1539, "Contract Claims," Seminole County Administrative Code.
- (b) CONSULTANT agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in COUNTY dispute resolution procedures set forth in subsection (a) above of which CONSULTANT had knowledge and failed to present during COUNTY dispute resolution procedures.

exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 21. REPRESENTATIVES OF COUNTY AND CONSULTANT.

- (a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. COUNTY shall designate in writing and shall advise CONSULTANT in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information, and interpret and define COUNTY's policy and decisions pertinent to the work covered by this Agreement.
- (b) CONSULTANT shall at all times during the normal work week designate or appoint one or more representatives of CONSULTANT who are authorized to act on behalf of and bind CONSULTANT regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep COUNTY continually and effectively advised of such designation.

SECTION 22. ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments,

agreements, or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

SECTION 23. MODIFICATIONS, AMENDMENTS OR ALTERATIONS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

SECTION 24. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties or as constituting CONSULTANT (including its officers, employees, and agents) an agent, representative, or employee of COUNTY for any purpose, or in any manner, whatsoever. CONSULTANT is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

SECTION 25. EMPLOYEE STATUS. Persons employed by CONSULTANT in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to COUNTY's officers and employees either by operation of law or by COUNTY.

SECTION 26. SERVICES NOT PROVIDED FOR. No claim for services furnished by CONSULTANT not specifically provided for herein shall be honored by COUNTY.

SECTION 27. PUBLIC RECORDS LAW. CONSULTANT acknowledges COUNTY's obligations under Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONSULTANT acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 28. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, CONSULTANT shall abide by all applicable statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement and shall entitle COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to CONSULTANT.

notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For COUNTY:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

For CONSULTANT:

HNTB Corporation 300 Primera Boulevard, Suite 200 Lake Mary, Florida 32746

SECTION 30. RIGHTS AT LAW RETAINED. The rights and remedies of COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date below written for execution by COUNTY.

ATTEST:	HNTB CORPORATION
, Secretary	By: JAMES P. ANGLIN, P.E., Vice-President
(CORPORATE SEAL)	Date:

[Balance of this page left intentionally blank; County attestation on page 25 of 25]

	SEMINOLE COUNTY, FLORIDA
MARYANNE MORSE Clerk to the Board of County Commissioners of	By: BOB DALLARI, Chairman Date:
For use and reliance of Seminole County only. Approved as to form and legal sufficiency.	As authorized for execution by the Board of County Commissioners at their, 20 regular meeting.
County Attorney AEC/lpk 11/13/09 12/10/09 12/24/09 P:\Users\Legal Secretary CSB\Purchasing Attachments:	2009\Agreements\PS-4388 HNTB.docx

BOARD OF COUNTY COMMISSIONERS

ATTEST:

Exhibit A - Scope of Services Exhibit B - Sample Work Order Exhibit C - Rate Schedule

Exhibit D - Truth in Negotiations Certificate

Exhibit A

Scope of Services

Continuous Professional Services Contract for Public Works Minor Projects Construction Cost Less than One Million Dollar

Seminole County is requesting continuing services for professional services as defined by Florida Statue 287.055 (CCNA). Under CCNA, work orders are currently limited by construction costs of \$1,000,000 or study costs of \$50,000.

It is Seminole County's desire to retain multiple consultants to perform, but not be limited to construction plan preparation and environmental and drainage permitting for minor projects. Some projects will require preliminary and final design phases and intensive sub-basin and environmental permitting.

The work orders under this contract will be inclusive of surveying, soil and geotechnical analysis, structure analysis, traffic analysis and any other analysis that would be needed to produce a set of construction plans. The projects will include but not limited to:

- Roadway Reconstruction Projects
- Roadway Traffic Safety Projects
- Sidewalk Projects
- Intersection Improvements
- Bridge replacements
- Stormwater/Water Quality Improvement Projects
- Stormwater Basin Studies
- Traffic signal design
- Traffic Studies
- Preliminary Engineering Studies
- ITS Services (includes fiber infrastructure as-built development, GPS services and fiber attachment agreements)
- Other Miscellaneous Roadway Improvements

Board of County Commissioners SEMINOLE COUNTY, FLORIDA

WORK ORDER

Master Agreement No.:	SEMINOLE COUNTY, FLORID	A Work Order Number:
ATTACHMENTS TO THIS WORK ORDER: [] drawings/plans/specifications [] scope of services [] time basis-not-to-exceed [] special conditions [] time basis-imitation of funds [] me basis-imitation of funds [] me basis-imitation of funds [] retainage shall be withheld TIME FOR COMPLETION: The services to be provided by the CONSULTANT shall commence upon execution of this Work Order by the parties, and shall be completed within	Master Agreement Title:	Dated:
I drawings/plans/specifications I fixed fee basis I time basis-not-to-exceed I time basis-limitation of funds I time basis-limitation of but held I time basis-l		
this Work Order by the parties, and shall be completed within	[] drawings/plans/specifications [] scope of services [] special conditions	[] fixed fee basis[] time basis-not-to-exceed[] time basis-limitation of funds
IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this	this Work Order by the parties, and shall be complet Work Order. Failure to meet the completion time shathe Master Agreement for Default.	ted within <u>calendar days</u> from the effective date of this all be grounds for Termination of both the Work Order and
	Work Order Amount:	DOLLARS (\$
, Secretary , President (CORPORATE SEAL) Date: ***********************************	, 20, for the purposes stated h	GETEIN. (THIS SECTION TO BE COMPLETED BY THE COUNTY)
(CORPORATE SEAL) ***********************************		,
BOARD OF COUNTY, FLORIDA WITNESSES: By:	, Secretary	, President
BOARD OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA By:	(CORPORATE SEAL)	Date:
Date: Procurement Analyst) As authorized by Section 8.153 Seminole County Administrative Code.		BOARD OF COUNTY COMMISSIONERS
Procurement Analyst) Date: As authorized by Section 8.153 Seminole County Administrative Code.		
As authorized by Section 8.153 Seminole County Administrative Code.	Procurement Analyst)	ру:, Procurement Supervisor
Procurement Analyst) As authorized by Section 8.153 Seminole County Administrative Code.		
OC # ON #	Procurement Analyst)	As authorized by Section 8.153 Seminole
	OC #	ON #

WORK ORDER TERMS AND CONDITIONS

- a) Execution of this Work Order by the COUNTY shall serve as authorization for the CONSULTANT to provide, for the stated project, professional services as set out in the Scope of Services attached as Exhibit "A" to the Master Agreement cited on the face of this Work Order and as further delineated in the attachments listed on this Work Order.
- b) Term: This Work Order shall take effect on the date of its execution by the COUNTY and expires upon final delivery, inspection, acceptance, and release of the final payments and encumbrances of the last approved amount of this Work Order, unless terminated earlier in accordance with the termination provisions herein.
- c) The CONSULTANT shall provide said services pursuant to this Work Order, its Attachments, and the cited Master Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety.
- d) Whenever the Work Order conflicts with the cited Master Agreement, the Master Agreement shall prevail.
- e) METHOD OF COMPENSATION If the compensation is based on a:
 - (i) FIXED FEE BASIS, then the Work Order Amount becomes the Fixed Fee Amount and the CONSULTANT shall perform all work required by this Work Order for the Fixed Fee Amount. The Fixed Fee is an all-inclusive Firm Fixed Price binding the CONSULTANT to complete the work for the Fixed Fee Amount regardless of the costs of performance. The work to be performed by the CONSULTANT shall be based on the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project. In no event shall the CONSULTANT be paid more than the Fixed Fee Amount.
 - (ii) TIME BASIS WITH A NOT-TO-EXCEED AMOUNT, then the Work Order Amount becomes the Not-to-Exceed Amount and the CONSULTANT shall perform all the work required by this Work Order for a sum not exceeding the Not-to-Exceed Amount. In no event is the CONSULTANT authorized to incur expenses exceeding the not-to-exceed amount without the express written consent of the COUNTY. Such consent will normally be in the form of an Amendment to this Work Order. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project.
 - (iii) TIME BASIS WITH A LIMITATION OF FUNDS AMOUNT, then the Work Order Amount becomes the Limitation of Funds amount and the CONSULTANT is not authorized to exceed the Limitation of Funds amount without prior written approval of the COUNTY. Such approval, if given by the COUNTY, shall indicate a new Limitation of Funds amount. The CONSULTANT shall advise the COUNTY whenever the CONSULTANT has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
 - (iv) The CONSULTANT may utilize labor categories that are not included in the attached fee proposal, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) or Fixed Fee Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories.

 The CONSULTANT shall submit a written request to the County for approval of any substitution prior to the utilization of any labor category for service, and the County's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and

their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

- f) Payment to the CONSULTANT shall be made by the COUNTY in strict accordance with the payment terms of the referenced Master Agreement.
- g) It is expressly understood by the CONSULTANT that this Work Order, until executed by the COUNTY, does not authorize the performance of any services by the CONSULTANT and that the COUNTY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Work Order; if it is determined that to do so is in the best interest of the COUNTY.
- h) The CONSULTANT shall sign the Work Order first and the COUNTY second. This Work Order becomes effective and binding upon execution by the COUNTY and not until then. A copy of this Work Order will be forwarded to the CONSULTANT upon execution by the COUNTY.

Seminole County Design of Minor Projects w/Construction Costs <\$1,000,000 PS-4388-09/VFT HNTB Project #49584

Classification	Weighted Raw Hourly Rate	Multiplier	Billing Rate
Chief Engineer	\$78.26	2.84	\$222.25
	Weighted Raw Hourly Rate	Multiplier	Billing Rate
Project Manager	\$55.80	2.84	\$158.46
	Weighted Raw Hourly Rate	Multiplier	Billing Rate
Sr Project Engineer	\$45.14	2.84	\$128.21
	Weighted Raw Hourly Rate	Multiplier	Billing Rate
Project Engineer	\$37.04	2.84	\$105.19
	Weighted Raw Hourly Rate	Multiplier	Billing Rate
Planner	\$39.45	2.84	\$112.04
	Weighted Raw Hourly Rate	Multiplier	Billing Rate
Designer	\$33.57	2.84	\$95.33
	Weighted Raw Hourly Rate	Multiplier	Billing Rate
Clerical	\$25.42	2.84	\$72.20

"Truth in Negotiations" Certificate

This is to certify that, to the best of my knowledge and belief, the wage rates and other factual unit costs supporting the compensation (as defined in section 287.055 of the Florida Statues (otherwise known as the "Consultants' Competitive Negotiations Act" or CCNA) and required under CCNA subsection 287.055 (5) (a)) submitted to Seminole County Purchasing and Contracts Division, Contracts Section, either actually or by specific identification in writing, in support of PS- H388 - O1 * are accurate, complete, and current as of 10-23-O1 (Date)***.

This certification includes the wage rates and other factual unit costs supporting any Work Orders or Amendments issued under the Agreement between the Consultant and the County.

irm: HNTB Corporation
•
Signature:
lame: 620RC6 GILHODLET
itle: Assoc Vices Pressident
Pate of execution***: // كاركاركا

Revised 4-7-09. BLH

^{*} Identify the proposal, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., PS No.).

^{**} Insert the day, month, and year when wage rates were submitted or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on compensation.

^{***} Insert the day, month, and year of signing.

(End of certificate)

CONTINUING CONSULTANT SERVICES AGREEMENT DESIGN OF MINOR PROJECTS WITH CONSTRUCTION COSTS LESS THAN \$1,000,000 (PS-4388-09/VFT)

THIS AGREEMENT is made and entered into this _______ day of ______, 20_____, by and between INWOOD CONSULTING ENGINEERS, INC., duly authorized to conduct business in the State of Florida, whose address is 3000 Dovera Drive, Suite 200, Oviedo, Florida 32765, hereinafter called "CONSULTANT", and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter called "COUNTY".

WITNESSETH:

WHEREAS, COUNTY desires to retain the services of a competent and qualified CONSULTANT to provide design of minor projects with construction costs less than \$1,000,000 in Seminole County; and

WHEREAS, COUNTY has requested and received expressions of interest for the retention of services of consultants; and

WHEREAS, CONSULTANT is competent and qualified to consultant services to COUNTY and desires to provide professional services according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, COUNTY and CONSULTANT agree as follows:

SECTION 1. SERVICES.

(a) COUNTY does hereby retain CONSULTANT to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto as Exhibit A and made a part hereof. Required services shall be specifically enumerated, described, and depicted in

the Work Orders authorizing performance of the specific project, task, or study. CONSULTANT shall also be bound by all requirements as contained in the solicitation package and all addenda thereto. This Agreement standing alone does not authorize the performance of any work or require COUNTY to place any orders for work.

(d) CONSULTANT may utilize labor categories that are not included in the fee proposal for each Work Order, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. CONSULTANT shall submit a written request to the County's Project Manager for approval of any substitution prior to the utilization of any labor category for service, and the County Project Manager's approval of any substitution must take place prior to submission of the invoice. approved labor category substitution shall be based on the prevailing labor categories and their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

SECTION 2. TERM. This Agreement shall take effect on the date of its execution by COUNTY and shall run for a period of three (3) years and, at the sole option of COUNTY, may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders issued pursuant to this Agreement and prior to the expiration date. Obligations entered therein by both parties shall remain in effect until completion of the work

authorized by the Work Order.

SECTION 3. AUTHORIZATION FOR SERVICES. Authorization for performance of professional services by CONSULTANT under this Agreement shall be in the form of written Work Orders issued and executed by COUNTY and signed by CONSULTANT. A sample Work Order is attached hereto as Exhibit B. Each Work Order shall describe the services required, state the dates for commencement and completion of work, and establish the amount and method of payment. The Work Orders will be issued under and shall incorporate the terms of this Agreement. COUNTY makes no covenant or promise as to the number of available projects or that CONSULTANT will perform any project for COUNTY during the life of this Agreement. COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by COUNTY to be in the best interest of COUNTY to do so.

SECTION 4. TIME FOR COMPLETION. The services to be rendered by CONSULTANT shall be commenced as specified in such Work Orders as may be issued hereunder and shall be completed within the time specified therein.

SECTION 5. COMPENSATION. COUNTY agrees to compensate CONSULTANT for the professional services called for under this Agreement on either a "Fixed Fee Basis" or on a "Time Basis Method". The CONSULTANT shall be compensated in accordance with the rate schedule attached as Exhibit C, which includes all reimbursable expenses. The CONSULTANT shall also be required to execute a Truth in Negotiations Certificate, attached hereto as Exhibit D.

SECTION 6. REIMBURSABLE EXPENSES.

(a) If a Work Order is issued on a Time Basis Method, then reimbursable expenses are in addition to the hourly rates. Reimbursable expenses are subject to the applicable "Not-to-Exceed" or "Limitation of Funds" amount set forth in the Work Order. Reimbursable expenses may include actual expenditures made by CONTRACTOR, his employees or his professional associates in the interest of the Project for the expenses listed in the following paragraphs:

(1) Travel expenses in connection with the Project based on Sections 112.061(7) and (8), Florida Statutes, or its successor, and subject to the limitation listed below; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project. Reimbursement for meals, travel, vehicle mileage, tolls, and parking sharp not apply to local employees of CONTRACTOR.

A. Reimbursement for mileage shall be at the rate allowable by the Federal Internal Revenue Services. Reimbursement for local mileage, defined as within a fifty (50) mile radius of the job site, is not allowed.

B. Car rental reimbursement is limited to compact cars for up to two (2) occupants and intermediate cars for more than two occupants.

C. Reimbursement for lodging shall be at \$75.00 or the actual expenses for lodging at a "non-resort"-type hotel located in Seminole County, Florida.

- D. Meals shall not exceed:
 - 1. Breakfast: \$6.00 without receipts \$10.00 with receipts;
 - 2. Lunch:
 \$11.00 without receipts
 \$13.00 with receipts;
 - 3. Dinner: \$19.00 without receipts \$27.00 with receipts.
- E. Reimbursement for airfare shall be based on coach rates.
- (2) Expense of reproduction, postage, and handling of drawings and specifications are authorized at actual cost only.
- (3) If authorized in writing in advance by COUNTY, the cost of other expenditures made by CONTRACTOR in the interest of the Project.
- (b) Any reimbursable expenses under this Agreement shall be supported by a source document, such as a receipt or invoice, with the employee's name, project name, and brief explanation of the expense.

 All reimbursable expenses shall be itemized on the invoices.
- (c) All reimbursable expenses must be allowable, allocable to the contract, and reasonable, as solely determined by COUNTY.

SECTION 7. PAYMENT AND BILLING.

(a) If the Scope of Services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a Fixed Fee Basis. CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the negotiated Fixed Fee amount stated therein.

- (b) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Not-to Exceed amount. If a Not-to-Exceed amount is provided, CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the Not-to-Exceed amount specified in the applicable Work Order.
- (c) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Limitation of Funds amount. CONSULTANT is not authorized to exceed that amount without the prior written approval of COUNTY. Said approval, if given by COUNTY, shall indicate a new Limitation of Funds amount. CONSULTANT shall advise COUNTY whenever CONSULTANT has incurred expenses on any Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount.
- (d) For Work Orders issued on a Fixed Fee Basis, CONSULTANT may invoice the amount due based on the percentage of total Work Order services actually performed and completed, but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.
- (e) For Work Orders issued on a Time Basis Method with a Not-to-Exceed amount, CONSULTANT may invoice the amount due for actual work hours performed, but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.
- (f) Payments shall be made by COUNTY to CONSULTANT when requested as work progresses for services furnished, but not more than once

monthly. Each Work Order shall be invoiced separately. At the close of each calendar month, CONSULTANT shall render to COUNTY a properly dated itemized invoice describing any services rendered, the cost of the services, the name and address of CONSULTANT, Work Order Number, Contract Number, and all other information required by this Agreement.

The original invoice and one (1) copy shall be sent to:

Director of County Finance Seminole County Board of County Commissioners Post Office Box 8080 Sanford, Florida 32772

Two (2) copies of the invoice shall be sent to:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

(g) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from CONSULTANT.

SECTION 8. GENERAL TERMS OF PAYMENT AND BILLING.

- (a) Upon satisfactory completion of work required hereunder and upon acceptance of the work by COUNTY, CONSULTANT may invoice COUNTY for the full amount of compensation provided for under the terms of this Agreement including any retainage and less any amount already paid by COUNTY. COUNTY shall pay CONSULTANT within thirty (30) days of receipt of proper invoice.
- (b) COUNTY may perform or have performed an audit of the records of CONSULTANT after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to CONSULTANT and COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to CONSULTANT may be

determined subsequent to an audit as provided for in subsections (b) and (c) of this Section, and the total compensation so determined shall be used to calculate final payment to CONSULTANT. Conduct of this audit shall not delay final payment as provided by subsection (a) of this Section.

- (c) In addition to the above, if federal funds are used for any work under the Agreement, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of CONSULTANT which are directly pertinent to work performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.
- (d) CONSULTANT agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at CONSULTANT's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsections (b) and (c) of this Section.
- (e) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (d) of this Section, reveals any overpayment by COUNTY under the terms of the Agreement, CONSULTANT shall refund such overpayment to COUNTY within thirty (30) days of notice by COUNTY.

SECTION 9. RESPONSIBILITIES OF CONSULTANT.

- (a) CONSULTANT shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.
- (b) Neither COUNTY's review, approval, or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement; and CONSULTANT shall be and always remain liable to COUNTY in accordance with applicable law and Section 18 herein for any and all damages to COUNTY caused by CONSULTANT's negligent or wrongful performance of any of the services furnished under this Agreement.

SECTION 10. OWNERSHIP OF DOCUMENTS. All deliverable analysis, reference data, survey data, plans, and reports or any other form of written instrument or document that may result from CONSULTANT's services or have been created during the course of CONSULTANT's performance under this Agreement shall become the property of COUNTY after final payment is made to CONSULTANT.

SECTION 11. TERMINATION.

- (a) COUNTY may, by written notice to CONSULTANT, terminate this Agreement or any Work Order issued hereunder, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of CONSULTANT to fulfill its Agreement obligations. Upon receipt of such notice, CONSULTANT shall:
- (1) immediately discontinue all services affected unless the notice directs otherwise; and
- (2) deliver to COUNTY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process. Provided, however, CONSULTANT shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where CONSULTANT is deprived of the opportunity to complete CONSULTANT's services.
- (b) If the termination is for the convenience of COUNTY, CONSULTANT shall be paid compensation for services performed to the date of termination. If this Agreement calls for the payment based on a Fixed Fee amount, CONSULTANT shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of work, as determined solely and conclusively by COUNTY, contemplated by this Agreement.
- (c) If the termination is due to the failure of CONSULTANT to fulfill its Agreement obligations, COUNTY may take over the work and prosecute the same to completion by other Agreements or otherwise. In

such case, CONSULTANT shall be liable to COUNTY for all reasonable additional costs occasioned to COUNTY thereby. CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of CONSULTANT; provided, however, that CONSULTANT shall be responsible and liable for the actions of its subcontractors, agents, employees, and persons and entities of a similar type or nature of whom CONSULTANT is legally liable under this Agreement. Such causes may include acts of God or of the public enemy, acts of COUNTY in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without any fault or negligence of CONSULTANT.

- (d) If after notice of termination for failure to fulfill its Agreement obligations it is determined that CONSULTANT had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of this Section.
- (e) The rights and remedies of COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.
- (f) CONSULTANT my terminate this Agreement upon written notice to the COUNTY in the event of substantial failure by COUNTY to perform in accordance with the terms of this Agreement; provided, however, COUNTY shall have 14 calendar days from the receipt of the termination notice

to cure or to submit a plan for cure acceptable to CONSULTANT.

SECTION 12. AGREEMENT AND WORK ORDER IN CONFLICT. Whenever the terms of this Agreement conflict with any Work Order issued pursuant to it, the Agreement shall prevail.

SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT. CONSULTANT agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment; upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 14. NO CONTINGENT FEES. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, COUNTY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or

consideration.

SECTION 15. CONFLICT OF INTEREST.

(a) CONSULTANT agrees that it will not contract for or accept

employment for the performance of any work or service with any

individual, business, corporation, or government unit that would create

a conflict of interest in the performance of its obligations pursuant to

this Agreement with COUNTY.

(b) CONSULTANT agrees that it will neither take any action nor

engage in any conduct that would cause any COUNTY employee to violate

the provisions of Chapter 112, Florida Statutes, relating to ethics in

government.

(c) In the event that CONSULTANT causes or in any way promotes or

encourages a COUNTY officer, employee, or agent to violate Chapter 112,

Florida Statutes, COUNTY shall have the right to terminate this

Agreement.

SECTION 16. ASSIGNMENT. This Agreement, or any interest herein,

shall not be assigned, transferred, or otherwise encumbered, under any

circumstances, by the parties hereto without prior written consent of

the other party and in such cases only by a document of equal dignity

herewith.

SECTION 17. SUBCONTRACTORS. In the event that CONSULTANT, during

the course of the work under this Agreement, requires the services of

any subcontractors or other professional associates in connection with

services covered by this Agreement, CONSULTANT must first secure the

prior express written approval of COUNTY. If subcontractors or other

professional associates are required in connection with the services

covered by this Agreement, CONSULTANT shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 18. INDEMNIFICATION OF COUNTY. CONSULTANT agrees to hold harmless, replace, and indemnify COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by CONSULTANT.

SECTION 19. INSURANCE.

- (a) <u>GENERAL</u>. CONSULTANT shall at its own cost procure the insurance required under this Section.
- CONSULTANT shall furnish COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation Limbboyer's Liability and Commercial General Liability). COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall state that the Insurer shall endeavor to provide the COUNTY not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by CONSULTANT, CONSULTANT shall provide COUNTY with a renewal replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.
- (2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance

is in full compliance with the insurance requirements of the Agreement.

In lieu of the statement on the Certificate, CONSULTANT shall (at the

option of COUNTY) submit a sworn notarized statement from an authorized

representative of the insurer that the Certificate is being provided in

accordance with the Agreement and that the insurance is in full

compliance with the requirements of the Agreement. The Certificate shall

have this Agreement number clearly marked on its face.

(3) In addition to providing the Certificate of Insurance,

if required by COUNTY, CONSULTANT shall, within thirty (30) days after

receipt of the request, provide COUNTY with a certified copy of each of

the policies of insurance providing the coverage required by this

Section.

(4) Neither approval by COUNTY nor failure to disapprove

the insurance furnished by a CONSULTANT shall relieve CONSULTANT of its

full responsibility for performance of any obligation including

CONSULTANT's indemnification of COUNTY under this Agreement.

(b) INSURANCE COMPANY REQUIREMENTS. Insurance companies

providing the insurance under this Agreement must meet the following

requirements:

(1) Companies issuing policies (other than Workers'

Compensation) must be authorized to conduct business in the State of

Florida and prove same by maintaining Certificates of Authority issued

to the companies by the Department of Insurance of the State of Florida.

Policies for Workers' Compensation may be issued by companies authorized

as a group self-insurer by Section 624.4621, Florida Statutes.

(2) In addition, such companies other than those authorized by Section 624.4621, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (i) lose its Certificate of Authority; (ii) no longer comply with Section 624.4621, Florida Statutes; or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, CONSULTANT shall, as soon as CONSULTANT has knowledge of any such circumstance, immediately notify COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as CONSULTANT has replaced the unacceptable insurer with an insurer acceptable to COUNTY, CONSULTANT shall be deemed to be in default of this Agreement.

(c) SPECIFICATIONS. Without limiting any of the other obligations or liability of CONSULTANT, CONSULTANT shall, at its sole expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by CONSULTANT and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) CONSULTANT's insurance shall cover CONSULTANT for liability which would be covered by the latest edition of the standard Workers' Compensation Policy as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. CONSULTANT will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both CONSULTANT and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act, and any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00 (Each Accident) \$1,000,000.00 (Disease-Policy Limit) \$ 500,000.00 (Disease-Each Employee)

(2) Commercial General Liability.

- (A) CONSULTANT's insurance shall cover CONSULTANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.
- (B) The minimum limits to be maintained by CONSULTANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

LIMITS

General Aggregate

Personal & Advertising Injury Limit Each Occurrence Limit Three (3) Times the Each-Occurrence Limit \$1,000,000.00

\$1,000,000.00

- (3) <u>Professional Liability Insurance</u>. CONSULTANT shall carry professional liability insurance with limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).
- (d) <u>COVERAGE</u>. The insurance provided by CONSULTANT pursuant to this Agreement shall apply on a primary basis, and any other insurance or self-insurance maintained by COUNTY or COUNTY's officials, officers, or employees shall be in excess of and not contributing to the insurance provided by or on behalf of CONSULTANT.
- (e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The

Professional Liability insurance policy must be on an occurrence basis or claims-made basis. If a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve CONSULTANT, its employees, or its agents of liability from any obligation under a Section or any other portions of this Agreement.

SECTION 20. DISPUTE RESOLUTION.

- payment obligation arising under this Agreement, the parties agree to exhaust COUNTY dispute resolution procedures prior to filing suit or otherwise pursuing legal remedies county dispute resolution procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code. Contract claims include all controversies, except disputes addressed by the "Prompt Payment Procedures," arising under this Agreement within the dispute resolution procedures set forth in Section 8.1539, "Contract Claims," Seminole County Administrative Code.
- (b) CONSULTANT agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in COUNTY dispute resolution procedures set forth in subsection (a) above of which CONSULTANT had knowledge and failed to present during COUNTY dispute resolution procedures.

exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 21. REPRESENTATIVES OF COUNTY AND CONSULTANT.

- (a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. COUNTY shall designate in writing and shall advise CONSULTANT in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information, and interpret and define COUNTY's policy and decisions pertinent to the work covered by this Agreement.
- (b) CONSULTANT shall at all times during the normal work week designate or appoint one or more representatives of CONSULTANT who are authorized to act on behalf of and bind CONSULTANT regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep COUNTY continually and effectively advised of such designation.

SECTION 22. ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments,

agreements, or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

SECTION 23. MODIFICATIONS, AMENDMENTS OR ALTERATIONS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

SECTION 24. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties or as constituting CONSULTANT (including its officers, employees, and agents) an agent, representative, or employee of COUNTY for any purpose, or in any manner, whatsoever. CONSULTANT is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

SECTION 25. EMPLOYEE STATUS. Persons employed by CONSULTANT in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to COUNTY's officers and employees either by operation of law or by COUNTY.

SECTION 26. SERVICES NOT PROVIDED FOR. No claim for services furnished by CONSULTANT not specifically provided for herein shall be honored by COUNTY.

SECTION 27. PUBLIC RECORDS LAW. CONSULTANT acknowledges COUNTY's obligations under Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONSULTANT acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 28. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, CONSULTANT shall abide by all applicable statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement and shall entitle COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to CONSULTANT.

notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For COUNTY:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

For CONSULTANT:

Inwood Consulting Engineers, Inc. 3000 Dovera Drive, Suite 200 Oviedo, Florida 32765

SECTION 30. RIGHTS AT LAW RETAINED. The rights and remedies of COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date below written for execution by COUNTY.

ATTEST:		INWOOD	CONSULTING	ENGINEERS,	INC.
	, Secretary	By: ANDREW	D. DEWITT, resident	P.E.,	
(CORPORATE	SEAL)	Date:	restaenc		

[Balance of this page left intentionally blank; County attestation on page 25 of 25]

	By:
MARYANNE MORSE	BOB DALLARI, Chairman
Clerk to the Board of	
County Commissioners of	Date:
Seminole County, Florida.	
For use and reliance	As authorized for execution by
of Seminole County only.	the Board of County Commissioners
	at their, 20
Approved as to form and	regular meeting.

BOARD OF COUNTY COMMISSIONERS

SEMINOLE COUNTY, FLORIDA

County Attorney
AEC/lpk

legal sufficiency.

11/13/09 12/10/09 12/24/09

P:\Users\Legal Secretary CSB\Purchasing 2009\Agreements\PS-4388 Inwood.docx

Attachments:

ATTEST:

Exhibit A - Scope of Services

Exhibit B - Sample Work Order

Exhibit C - Rate Schedule

Exhibit D - Truth in Negotiations Certificate

Exhibit A

Scope of Services

Continuous Professional Services Contract for Public Works Minor Projects Construction Cost Less than One Million Dollar

Seminole County is requesting continuing services for professional services as defined by Florida Statue 287.055 (CCNA). Under CCNA, work orders are currently limited by construction costs of \$1,000,000 or study costs of \$50,000.

It is Seminole County's desire to retain multiple consultants to perform, but not be limited to construction plan preparation and environmental and drainage permitting for minor projects. Some projects will require preliminary and final design phases and intensive sub-basin and environmental permitting.

The work orders under this contract will be inclusive of surveying, soil and geotechnical analysis, structure analysis, traffic analysis and any other analysis that would be needed to produce a set of construction plans. The projects will include but not limited to:

- Roadway Reconstruction Projects
- Roadway Traffic Safety Projects
- Sidewalk Projects
- Intersection Improvements
- Bridge replacements
- Stormwater/Water Quality Improvement Projects
- Stormwater Basin Studies
- Traffic signal design
- Traffic Studies
- Preliminary Engineering Studies
- ITS Services (includes fiber infrastructure as-built development, GPS services and fiber attachment agreements)
- Other Miscellaneous Roadway Improvements

SEMINOLE COUNTY, FLORIDA

WORK ORDER

Work Order Number: Master Agreement No.: ________Dated: ______ Master Agreement Title: Project Title: Consultant: Address: METHOD OF COMPENSATION: ATTACHMENTS TO THIS WORK ORDER: [] drawings/plans/specifications [] fixed fee basis 1 scope of services 1 time basis-not-to-exceed [] special conditions [] time basis-limitation of funds [] retainage shall be withheld TIME FOR COMPLETION: The services to be provided by the CONSULTANT shall commence upon execution of this Work Order by the parties, and shall be completed within <u>calendar days</u> from the effective date of this Work Order. Failure to meet the completion time shall be grounds for Termination of both the Work Order and the Master Agreement for Default. Work Order Amount: DOLLARS (\$) IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this ______ day of ______, 20_____, for the purposes stated herein. (THIS SECTION TO BE COMPLETED BY THE COUNTY) ATTEST: Consultant , President , Secretary (CORPORATE SEAL) Date: BOARD OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA WITNESSES: , Procurement Supervisor (Procurement Analyst) Date: As authorized by Section 8.153 Seminole (Procurement Analyst) County Administrative Code. OC #____ ON #_____

Page 1 of 3

WORK ORDER TERMS AND CONDITIONS

- a) Execution of this Work Order by the COUNTY shall serve as authorization for the CONSULTANT to provide, for the stated project, professional services as set out in the Scope of Services attached as Exhibit "A" to the Master Agreement cited on the face of this Work Order and as further delineated in the attachments listed on this Work Order.
- b) Term: This Work Order shall take effect on the date of its execution by the COUNTY and expires upon final delivery, inspection, acceptance, and release of the final payments and encumbrances of the last approved amount of this Work Order, unless terminated earlier in accordance with the termination provisions herein.
- c) The CONSULTANT shall provide said services pursuant to this Work Order, its Attachments, and the cited Master Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety.
- d) Whenever the Work Order conflicts with the cited Master Agreement, the Master Agreement shall prevail.
- e) METHOD OF COMPENSATION If the compensation is based on a:
 - (i) FIXED FEE BASIS, then the Work Order Amount becomes the Fixed Fee Amount and the CONSULTANT shall perform all work required by this Work Order for the Fixed Fee Amount. The Fixed Fee is an all-inclusive Firm Fixed Price binding the CONSULTANT to complete the work for the Fixed Fee Amount regardless of the costs of performance. The work to be performed by the CONSULTANT shall be based on the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project. In no event shall the CONSULTANT be paid more than the Fixed Fee Amount.
 - (ii) TIME BASIS WITH A NOT-TO-EXCEED AMOUNT, then the Work Order Amount becomes the Not-to-Exceed Amount and the CONSULTANT shall perform all the work required by this Work Order for a sum not exceeding the Not-to-Exceed Amount. In no event is the CONSULTANT authorized to incur expenses exceeding the not-to-exceed amount without the express written consent of the COUNTY. Such consent will normally be in the form of an Amendment to this Work Order. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project.
 - (iii) TIME BASIS WITH A LIMITATION OF FUNDS AMOUNT, then the Work Order Amount becomes the Limitation of Funds amount and the CONSULTANT is not authorized to exceed the Limitation of Funds amount without prior written approval of the COUNTY. Such approval, if given by the COUNTY, shall indicate a new Limitation of Funds amount. The CONSULTANT shall advise the COUNTY whenever the CONSULTANT has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
 - (iv) The CONSULTANT may utilize labor categories that are not included in the attached fee proposal, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) or Fixed Fee Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. The CONSULTANT shall submit a written request to the County for approval of any substitution prior to the utilization of any labor category for service, and the County's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and

their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

- f) Payment to the CONSULTANT shall be made by the COUNTY in strict accordance with the payment terms of the referenced Master Agreement.
- g) It is expressly understood by the CONSULTANT that this Work Order, until executed by the COUNTY, does not authorize the performance of any services by the CONSULTANT and that the COUNTY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Work Order; if it is determined that to do so is in the best interest of the COUNTY.
- h) The CONSULTANT shall sign the Work Order first and the COUNTY second. This Work Order becomes effective and binding upon execution by the COUNTY and not until then. A copy of this Work Order will be forwarded to the CONSULTANT upon execution by the COUNTY.



PS-4388-09/VFT

DESIGN OF MINOR PROJECTS W/ CONSTRUCTION COSTS LESS THAN \$1,000,000

LABOR CATEGORY	RAW HOURLY RATE	MULTIPLIER	FINAL BILLING RATES
Principal	\$67.50	2.66	\$179.55
Project Manager	\$57.50	2.66	\$152.95
Senior Engineer	\$52.50	2.66	\$139.65
Project Engineer	\$38.38	2.66	\$102.09
Designer	\$26.75	2.66	\$71.16
Environmental Scientist	\$37.75	2.66	\$100.42
Administrative / Clerical	\$18.00	2.66	\$47.88

Multiplier Calculation

Direct Raw Labor: 100.00%

Audited Overhead (General + Fringe): 139.65%

Subtotal Labor and Overhead: 239.65%

Profit @ 11% of 239.65%: 26.36%

TOTAL MULTIPLIER (Rounded): 2.66

TOTAL: 266.01%

This is to certify that the above contract rates will be utilized on this contract.

"Truth in Negotiations" Certificate

This is to certify that, to the best of my knowledge and belief, the wage rates and other factual unit costs supporting the compensation (as defined in section 287.055 of the Florida Statutes (otherwise known as the "Consultants' Competitive Negotiations Act" or CCNA) and required under CCNA subsection 287.055(5)(a)) submitted to Seminole County Purchasing and Contracts Division, Contracts Section, either actually or by specific identification in writing, in support of <u>PS-4388-09*</u> are accurate, complete, and current as of <u>October 30, 2009 (Date)**</u>.

This certification includes the wage rates and other factual unit costs supporting any Work Orders or Amendments issued under the Agreement between the Consultant and the County.

Firm:	Inwood Consulting Engineers, Inc.	
Signature: _	Erclut Buck	
Name:	Edwin H. Buck, III	
Title:	Executive Vice President, COO	
Date of execution***: <u>October 30, 2009</u>		

(End of certificate)

^{*} Identify the proposal, request for price adjustment, or other submission involve, giving the appropriate identifying number (e.g., PS No.)

^{**} Insert the day, month, and year when wage rates were submitted or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on compensation.

^{***} Insert the day, month, and year of signing.

CONTINUING CONSULTANT SERVICES AGREEMENT DESIGN OF MINOR PROJECTS WITH CONSTRUCTION COSTS LESS THAN \$1,000,000 (PS-4388-09/VFT)

THIS AGREEMENT is made and entered into this _______ day of _______, 20_____, by and between PEGASUS ENGINEERING, LLC, duly authorized to conduct business in the State of Florida, whose address is 301 W. S.R. 434, Suite 309, Winter Springs, Florida 32701, hereinafter called "CONSULTANT", and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter called "COUNTY".

WITNESSETH:

WHEREAS, COUNTY desires to retain the services of a competent and qualified CONSULTANT to provide design of minor projects with construction costs less than \$1,000,000 in Seminole County; and

WHEREAS, COUNTY has requested and received expressions of interest for the retention of services of consultants; and

WHEREAS, CONSULTANT is competent and qualified to consultant services to COUNTY and desires to provide professional services according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, COUNTY and CONSULTANT agree as follows:

SECTION 1. SERVICES.

(a) COUNTY does hereby retain CONSULTANT to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto as Exhibit A and made a part hereof. Required services shall be specifically enumerated, described, and depicted in

the Work Orders authorizing performance of the specific project, task, or study. CONSULTANT shall also be bound by all requirements as contained in the solicitation package and all addenda thereto. This Agreement standing alone does not authorize the performance of any work or require COUNTY to place any orders for work.

(b) CONSULTANT may utilize labor categories that are not included in the fee proposal for each Work Order, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. CONSULTANT shall submit a written request to the County's Project Manager for approval of any substitution prior to the utilization of any labor category for service, and the County Project Manager's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

SECTION 2. TERM. This Agreement shall take effect on the date of its execution by COUNTY and shall run for a period of three (3) years and, at the sole option of COUNTY, may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders issued pursuant to this Agreement and prior to the expiration date. Obligations entered therein by both parties shall remain in effect until completion of the work

authorized by the Work Order.

SECTION 3. AUTHORIZATION FOR SERVICES. Authorization for performance of professional services by CONSULTANT under this Agreement shall be in the form of written Work Orders issued and executed by COUNTY and signed by CONSULTANT. A sample Work Order is attached hereto as Exhibit B. Each Work Order shall describe the services required, state the dates for commencement and completion of work, and establish the amount and method of payment. The Work Orders will be issued under and shall incorporate the terms of this Agreement. COUNTY makes no covenant or promise as to the number of available projects or that CONSULTANT will perform any project for COUNTY during the life of this Agreement. COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by COUNTY to be in the best interest of country to do so.

SECTION 4. TIME FOR COMPLETION. The services to be rendered by CONSULTANT shall be commenced as specified in such Work Orders as may be issued hereunder and shall be completed within the time specified therein.

SECTION 5. COMPENSATION. COUNTY agrees to compensate CONSULTANT for the professional services called for under this Agreement on either a "Fixed Fee Basis" or on a "Time Basis Method". The CONSULTANT shall be compensated in accordance with the rate schedule attached as Exhibit C, which includes all reimbursable expenses. The CONSULTANT shall also be required to execute a Truth in Negotiations Certificate, attached hereto as Exhibit D.

SECTION 6. REIMBURSABLE EXPENSES.

- (a) If a Work Order is issued on a Time Basis Method, then reimbursable expenses are in addition to the hourly rates. Reimbursable expenses are subject to the applicable "Not-to-Exceed" or "Limitation of Funds" amount set forth in the Work Order. Reimbursable expenses may include actual expenditures made by CONTRACTOR, his employees or his professional associates in the interest of the Project for the expenses listed in the following paragraphs:
- (1) Travel expenses in connection with the Project based on Sections 112.061(7) and (8), Florida Statutes, or its successor, and subject to the limitation listed below; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project. Reimbursement for meals, travel, vehicle mileage, tolls, and parking shall not apply to local employees of CONTRACTOR.
- A. Reimbursement for mileage shall be at the rate allowable by the Federal Internal Revenue Services. Reimbursement for local mileage, defined as within a fifty (50) mile radius of the job site, is not allowed.
- B. Car rental reimbursement is limited to compact cars for up to two (2) occupants and intermediate cars for more than two occupants.
- C. Reimbursement for lodging shall be at \$75.00 or the actual expenses for lodging at a "non-resort"-type hotel located in Seminole County, Florida.

- D. Meals shall not exceed:
 - 1. Breakfast: \$6.00 without receipts \$10.00 with receipts;
 - 2. Lunch:
 \$11.00 without receipts
 \$13.00 with receipts;
 - 3. Dinner: \$19.00 without receipts \$27.00 with receipts.
- E. Reimbursement for airfare shall be based on coach rates.
- (2) Expense of reproduction, postage, and handling of drawings and specifications are authorized at actual cost only.
- (3) If authorized in writing in advance by COUNTY, the cost of other expenditures made by CONTRACTOR in the interest of the Project.
- (b) Any reimbursable expenses under this Agreement shall be supported by a source document, such as a receipt or invoice, with the employee's name, project name, and brief explanation of the expense. All reimbursable expenses shall be itemized on the invoices.
- (c) All reimbursable expenses must be allowable, allocable to the contract, and reasonable, as solely determined by COUNTY.

SECTION 7. PAYMENT AND BILLING.

(a) If the Scope of Services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a Fixed Fee Basis. CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the negotiated Fixed Fee amount stated therein.

- (b) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Not-to Exceed amount. If a Not-to-Exceed amount is provided, CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the Not-to-Exceed amount specified in the applicable Work Order.
- (c) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Limitation of Funds amount. CONSULTANT is not authorized to exceed that amount without the prior written approval of COUNTY. Said approval, if given by COUNTY, shall indicate a new Limitation of Funds amount. CONSULTANT shall advise COUNTY whenever CONSULTANT has incurred expenses on any Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount.
- (d) For Work Orders issued on a Fixed Fee Basis, CONSULTANT may invoice the amount due based on the percentage of total Work Order services actually performed and completed, but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.
- (e) For Work Orders issued on a Time Basis Method with a Not-to-Exceed amount, CONSULTANT may invoice the amount due for actual work hours performed, but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.
- (f) Payments shall be made by COUNTY to CONSULTANT when requested as work progresses for services furnished, but not more than once

monthly. Each Work Order shall be invoiced separately. At the close of each calendar month, CONSULTANT shall render to COUNTY a properly dated itemized invoice describing any services rendered, the cost of the services, the name and address of CONSULTANT, Work Order Number, Contract Number, and all other information required by this Agreement.

The original invoice and one (1) copy shall be sent to:

Director of County Finance Seminole County Board of County Commissioners Post Office Box 8080 Sanford, Florida 32772

Two (2) copies of the invoice shall be sent to:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

(g) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from CONSULTANT.

SECTION 8. GENERAL TERMS OF PAYMENT AND BILLING.

- (a) Upon satisfactory completion of work required hereunder and upon acceptance of the work by COUNTY, CONSULTANT may invoice COUNTY for the full amount of compensation provided for under the terms of this Agreement including any retainage and less any amount already paid by COUNTY. COUNTY shall pay CONSULTANT within thirty (30) days of receipt of proper invoice.
- (b) COUNTY may perform or have performed an audit of the records of CONSULTANT after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to CONSULTANT and COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to CONSULTANT may be

determined subsequent to an audit as provided for in subsections (b) and (c) of this Section, and the total compensation so determined shall be used to calculate final payment to CONSULTANT. Conduct of this audit shall not delay final payment as provided by subsection (a) of this Section.

- (c) In addition to the above, if federal funds are used for any work under the Agreement, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of CONSULTANT which are directly pertinent to work performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.
- (d) CONSULTANT agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at CONSULTANT's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsections (b) and (c) of this Section.
- (e) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (d) of this Section, reveals any overpayment by COUNTY under the terms of the Agreement, CONSULTANT shall refund such overpayment to COUNTY within thirty (30) days of notice by COUNTY.

SECTION 9. RESPONSIBILITIES OF CONSULTANT.

- (a) CONSULTANT shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.
- (b) Neither COUNTY's review, approval, or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement; and CONSULTANT shall be and always remain liable to COUNTY in accordance with applicable law and Section 18 herein for any and all damages to COUNTY caused by CONSULTANT's negligent or wrongful performance of any of the services furnished under this Agreement.

SECTION 10. OWNERSHIP OF DOCUMENTS. All deliverable analysis, reference data, survey data, plans, and reports or any other form of written instrument or document that may result from CONSULTANT's services or have been created during the course of CONSULTANT's performance under this Agreement shall become the property of COUNTY after final payment is made to CONSULTANT.

SECTION 11. TERMINATION.

- (a) COUNTY may, by written notice to CONSULTANT, terminate this Agreement or any Work Order issued hereunder, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of CONSULTANT to fulfill its Agreement obligations. Upon receipt of such notice, CONSULTANT shall:
- (1) immediately discontinue all services affected unless the notice directs otherwise; and
- (2) deliver to COUNTY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process. Provided, however, CONSULTANT shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where CONSULTANT is deprived of the opportunity to complete CONSULTANT's services.
- (b) If the termination is for the convenience of COUNTY, CONSULTANT shall be paid compensation for services performed to the date of termination. If this Agreement calls for the payment based on a Fixed Fee amount, CONSULTANT shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of work, as determined solely and conclusively by COUNTY, contemplated by this Agreement.
- (c) If the termination is due to the failure of CONSULTANT to fulfill its Agreement obligations, COUNTY may take over the work and prosecute the same to completion by other Agreements or otherwise. In

such case, CONSULTANT shall be liable to COUNTY for all reasonable additional costs occasioned to COUNTY thereby. CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of CONSULTANT; provided, however, that CONSULTANT shall be responsible and liable for the actions of its subcontractors, agents, employees, and persons and entities of a similar type or nature of whom CONSULTANT is legally liable under this Agreement. Such causes may include acts of God or of the public enemy, acts of COUNTY in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without any fault or negligence of CONSULTANT.

- (d) If after notice of termination for failure to fulfill its Agreement obligations it is determined that CONSULTANT had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of this Section.
- (e) The rights and remedies of COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.
- (f) CONSULTANT my terminate this Agreement upon written notice to the COUNTY in the event of substantial failure by COUNTY to perform in accordance with the terms of this Agreement; provided, however, COUNTY shall have 14 calendar days from the receipt of the termination notice

to cure or to submit a plan for cure acceptable to CONSULTANT.

SECTION 12. AGREEMENT AND WORK ORDER IN CONFLICT. Whenever the terms of this Agreement conflict with any Work Order issued pursuant to it, the Agreement shall prevail.

SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT. CONSULTANT agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment; upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 14. NO CONTINGENT FEES. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, COUNTY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or

consideration.

SECTION 15. CONFLICT OF INTEREST.

(a) CONSULTANT agrees that it will not contract for or accept

employment for the performance of any work or service with any

individual, business, corporation, or government unit that would create

a conflict of interest in the performance of its obligations pursuant to

this Agreement with COUNTY.

(b) CONSULTANT agrees that it will neither take any action nor

engage in any conduct that would cause any COUNTY employee to violate

the provisions of Chapter 112, Florida Statutes, relating to ethics in

government.

(c) In the event that CONSULTANT causes or in any way promotes or

encourages a COUNTY officer, employee, or agent to violate Chapter 112,

Florida Statutes, COUNTY shall have the right to terminate this

Agreement.

SECTION 16. ASSIGNMENT. This Agreement, or any interest herein,

shall not be assigned, transferred, or otherwise encumbered, under any

circumstances, by the parties hereto without prior written consent of

the other party and in such cases only by a document of equal dignity

herewith.

SECTION 17. SUBCONTRACTORS. In the event that CONSULTANT, during

the course of the work under this Agreement, requires the services of

any subcontractors or other professional associates in connection with

services covered by this Agreement, CONSULTANT must first secure the

prior express written approval of COUNTY. If subcontractors or other

professional associates are required in connection with the services

covered by this Agreement, CONSULTANT shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 18. INDEMNIFICATION OF COUNTY. CONSULTANT agrees to hold harmless, replace, and indemnify COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by CONSULTANT.

SECTION 19. INSURANCE.

- (a) <u>GENERAL</u>. CONSULTANT shall at its own cost procure the insurance required under this Section.
- CONSULTANT shall furnish COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation Limbboyer's Liability and Commercial General Liability). COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall state that the Insurer shall endeavor to provide the COUNTY not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by CONSULTANT, CONSULTANT shall provide COUNTY with a renewal replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.
- (2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance

is in full compliance with the insurance requirements of the Agreement. In lieu of the statement on the Certificate, CONSULTANT shall (at the option of COUNTY) submit a sworn notarized statement from an authorized representative of the insurer that the Certificate is being provided in accordance with the Agreement and that the insurance is in full

compliance with the requirements of the Agreement. The Certificate shall

have this Agreement number clearly marked on its face.

(3) In addition to providing the Certificate of Insurance, if required by COUNTY, CONSULTANT shall, within thirty (30) days after receipt of the request, provide COUNTY with a certified copy of each of the policies of insurance providing the coverage required by this Section.

(4) Neither approval by COUNTY nor failure to disapprove the insurance furnished by a CONSULTANT shall relieve CONSULTANT of its full responsibility for performance of any obligation including CONSULTANT's indemnification of COUNTY under this Agreement.

(b) <u>INSURANCE COMPANY REQUIREMENTS</u>. Insurance companies providing the insurance under this Agreement must meet the following requirements:

(1) Companies issuing policies (other than Workers' Compensation) must be authorized to conduct business in the State of Florida and prove same by maintaining Certificates of Authority issued to the companies by the Department of Insurance of the State of Florida. Policies for Workers' Compensation may be issued by companies authorized as a group self-insurer by Section 624.4621, Florida Statutes.

(2) In addition, such companies other than those authorized by Section 624.4621, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or

better according to A.M. Best Company.

(3) If during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (i) lose its Certificate of Authority; (ii) no longer comply with Section 624.4621, Florida Statutes; or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, CONSULTANT shall, as soon as CONSULTANT has knowledge of any such circumstance, immediately notify COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as CONSULTANT has replaced the unacceptable insurer with an insurer acceptable to COUNTY, CONSULTANT shall be deemed to be in default of this Agreement.

(C) SPECIFICATIONS. Without limiting any of the other obligations or liability of CONSULTANT, CONSULTANT shall, at its sole expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this subsection. Except as otherwise specified in the Agreement, the insurance shall become effective prior to the commencement of work by CONSULTANT and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) CONSULTANT's insurance shall cover CONSULTANT for liability which would be covered by the latest edition of the standard Workers' Compensation Policy as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. CONSULTANT will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both CONSULTANT and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act, and any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00 (Each Accident) \$1,000,000.00 (Disease-Policy Limit) \$ 500,000.00 (Disease-Each Employee)

(2) Commercial General Liability.

- (A) CONSULTANT's insurance shall cover CONSULTANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.
- (B) The minimum limits to be maintained by CONSULTANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

LIMITS

General Aggregate

Personal & Advertising Injury Limit Each Occurrence Limit Three (3) Times the Each-Occurrence Limit \$1,000,000.00

\$1,000,000.00

- (3) <u>Professional Liability Insurance</u>. CONSULTANT shall carry professional liability insurance with limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).
- (d) <u>COVERAGE</u>. The insurance provided by CONSULTANT pursuant to this Agreement shall apply on a primary basis, and any other insurance or self-insurance maintained by COUNTY or COUNTY's officials, officers, or employees shall be in excess of and not contributing to the insurance provided by or on behalf of CONSULTANT.
- (e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The

Professional Liability insurance policy must be on an occurrence basis or claims-made basis. If a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve CONSULTANT, its employees, or its agents of liability from any obligation under a Section or any other portions of this Agreement.

SECTION 20. DISPUTE RESOLUTION.

- (a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust COUNTY dispute resolution procedures prior to filing suit or otherwise pursuing legal remedies—COUNTY dispute resolution procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code. Contract claims include all controversies, except disputes addressed by the "Prompt Payment Procedures," arising under this Agreement within the dispute resolution procedures set forth in Section 8.1539, "Contract Claims," Seminole County Administrative Code.
- (b) CONSULTANT agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in COUNTY dispute resolution procedures set forth in subsection (a) above of which CONSULTANT had knowledge and failed to present during COUNTY dispute resolution procedures.

exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 21. REPRESENTATIVES OF COUNTY AND CONSULTANT.

- (a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. COUNTY shall designate in writing and shall advise CONSULTANT in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information, and interpret and define COUNTY's policy and decisions pertinent to the work covered by this Agreement.
- (b) CONSULTANT shall at all times during the normal work week designate or appoint one or more representatives of CONSULTANT who are authorized to act on behalf of and bind CONSULTANT regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep COUNTY continually and effectively advised of such designation.

SECTION 22. ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments,

agreements, or understandings concerning the subject matter of this

Agreement that are not contained or referred to in this document.

Accordingly, it is agreed that no deviation from the terms hereof shall

be predicated upon any prior representations or agreements, whether oral

or written.

SECTION 23. MODIFICATIONS, AMENDMENTS OR ALTERATIONS.

No

modification, amendment, or alteration in the terms or conditions

contained herein shall be effective unless contained in a written

document executed with the same formality and of equal dignity herewith.

SECTION 24. INDEPENDENT CONTRACTOR. It is agreed that nothing

herein contained is intended or should be construed as in any manner

creating or establishing a relationship of co-partners between the

parties or as constituting CONSULTANT (including its officers,

employees, and agents) an agent, representative, or employee of COUNTY

for any purpose, or in any manner, whatsoever. CONSULTANT is to be and

shall remain forever an independent contractor with respect to all

services performed under this Agreement.

SECTION 25. EMPLOYEE STATUS. Persons employed by CONSULTANT in

the performance of services and functions pursuant to this Agreement

shall have no claim to pension, workers' compensation, unemployment com-

pensation, civil service, or other employee rights or privileges granted

to COUNTY's officers and employees either by operation of law or by

COUNTY.

SECTION 26. SERVICES NOT PROVIDED FOR. No claim for services

furnished by CONSULTANT not specifically provided for herein shall be

honored by COUNTY.

Design of Minor Projects with Construction Costs Less Than \$1,000,000.00 (PS-4388-09/VFT) SECTION 27. PUBLIC RECORDS LAW. CONSULTANT acknowledges COUNTY's obligations under Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONSULTANT acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 28. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, CONSULTANT shall abide by all applicable statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement and shall entitle COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to CONSULTANT.

SECTION 29. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For COUNTY:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

For CONSULTANT:

Pegasus Engineering, LLC 301 W. S.R. 434, Suite 309 Winter Springs, Florida 32701

SECTION 30. RIGHTS AT LAW RETAINED. The rights and remedies of COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date below written for execution by COUNTY.

ATTEST:		PEGASUS	ENGINEERING,	LLC
	, Secretary	By:	MUJED, P.E.,	Principal
(CORPORATE	SEAL)	Date:		

[Balance of this page left intentionally blank; County attestation on page 25 of 25]

A.	L T	T	C	ጥ	٠
£7.			v	4	٠

BOARD OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA

	By:	
MARYANNE MORSE	BOB DALLARI, Chairman	
Clerk to the Board of		
County Commissioners of	Date:	
Seminole County, Florida.	-	٠
For use and reliance	As authorized for executi	on by
of Seminole County only.	the Board of County Commi	ssioners
	at their, 20	
Approved as to form and legal sufficiency.	regular meeting.	

County Attorney
AEC/lpk

11/13/09 12/10/09 12/24/09

P:\Users\Legal Secretary CSB\Purchasing 2009\Agreements\PS-4388 Pegusus.docx

Attachments:

Exhibit A - Scope of Services

Exhibit B - Sample Work Order

Exhibit C - Rate Schedule

Exhibit D - Truth in Negotiations Certificate

Exhibit A

Scope of Services

Continuous Professional Services Contract for Public Works Minor Projects Construction Cost Less than One Million Dollar

Seminole County is requesting continuing services for professional services as defined by Florida Statue 287.055 (CCNA). Under CCNA, work orders are currently limited by construction costs of \$1,000,000 or study costs of \$50,000.

It is Seminole County's desire to retain multiple consultants to perform, but not be limited to construction plan preparation and environmental and drainage permitting for minor projects. Some projects will require preliminary and final design phases and intensive sub-basin and environmental permitting.

The work orders under this contract will be inclusive of surveying, soil and geotechnical analysis, structure analysis, traffic analysis and any other analysis that would be needed to produce a set of construction plans. The projects will include but not limited to:

- Roadway Reconstruction Projects
- Roadway Traffic Safety Projects
- Sidewalk Projects
- Intersection improvements
- Bridge replacements
- Stormwater/Water Quality Improvement Projects
- Stormwater Basin Studies
- Traffic signal design
- Traffic Studies
- Preliminary Engineering Studies
- ITS Services (includes fiber infrastructure as-built development, GPS services and fiber attachment agreements)
- Other Miscellaneous Roadway Improvements

Board of County Commissioners

WORK ORDER

SEMINOLE COUNTY, FLORIDA Work Order Number: Master Agreement No.: _______Dated: ______ Master Agreement Title: Project Title: Consultant: Address: ATTACHMENTS TO THIS WORK ORDER: METHOD OF COMPENSATION: [] drawings/plans/specifications I 1 fixed fee basis [] scope of services [] time basis-not-to-exceed 1 special conditions I time basis-limitation of funds [] retainage shall be withheld TIME FOR COMPLETION: The services to be provided by the CONSULTANT shall commence upon execution of this Work Order by the parties, and shall be completed within _____calendar days from the effective date of this Work Order. Failure to meet the completion time shall be grounds for Termination of both the Work Order and the Master Agreement for Default. Work Order Amount: DOLLARS (\$ IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this day of ______, 20_____, for the purposes stated herein. (THIS SECTION TO BE COMPLETED BY THE COUNTY) Consultant ATTEST: , Secretary , President (CORPORATE SEAL) Date: BOARD OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA WITNESSES: , Procurement Supervisor (Procurement Analyst) Date: As authorized by Section 8.153 Seminole (Procurement Analyst)

OC #____

ON #_____

County Administrative Code.

WORK ORDER TERMS AND CONDITIONS

- a) Execution of this Work Order by the COUNTY shall serve as authorization for the CONSULTANT to provide, for the stated project, professional services as set out in the Scope of Services attached as Exhibit "A" to the Master Agreement cited on the face of this Work Order and as further delineated in the attachments listed on this Work Order.
- b) Term: This Work Order shall take effect on the date of its execution by the COUNTY and expires upon final delivery, inspection, acceptance, and release of the final payments and encumbrances of the last approved amount of this Work Order, unless terminated earlier in accordance with the termination provisions herein.
- c) The CONSULTANT shall provide said services pursuant to this Work Order, its Attachments, and the cited Master Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety.
- d) Whenever the Work Order conflicts with the cited Master Agreement, the Master Agreement shall prevail.
- e) METHOD OF COMPENSATION If the compensation is based on a:
 - (i) FIXED FEE BASIS, then the Work Order Amount becomes the Fixed Fee Amount and the CONSULTANT shall perform all work required by this Work Order for the Fixed Fee Amount. The Fixed Fee is an all-inclusive Firm Fixed Price binding the CONSULTANT to complete the work for the Fixed Fee Amount regardless of the costs of performance. The work to be performed by the CONSULTANT shall be based on the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project. In no event shall the CONSULTANT be paid more than the Fixed Fee Amount.
 - (ii) TIME BASIS WITH A NOT-TO-EXCEED AMOUNT, then the Work Order Amount becomes the Not-to-Exceed Amount and the CONSULTANT shall perform all the work required by this Work Order for a sum not exceeding the Not-to-Exceed Amount. In no event is the CONSULTANT authorized to incur expenses exceeding the not-to-exceed amount without the express written consent of the COUNTY. Such consent will normally be in the form of an Amendment to this Work Order. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project.
 - (iii) TIME BASIS WITH A LIMITATION OF FUNDS AMOUNT, then the Work Order Amount becomes the Limitation of Funds amount and the CONSULTANT is not authorized to exceed the Limitation of Funds amount without prior written approval of the COUNTY. Such approval, if given by the COUNTY, shall indicate a new Limitation of Funds amount. The CONSULTANT shall advise the COUNTY whenever the CONSULTANT has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
 - (iv) The CONSULTANT may utilize labor categories that are not included in the attached fee proposal, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) or Fixed Fee Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. The CONSULTANT shall submit a written request to the County for approval of any substitution prior to the utilization of any labor category for service, and the County's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and

their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

- f) Payment to the CONSULTANT shall be made by the COUNTY in strict accordance with the payment terms of the referenced Master Agreement.
- g) It is expressly understood by the CONSULTANT that this Work Order, until executed by the COUNTY, does not authorize the performance of any services by the CONSULTANT and that the COUNTY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Work Order; if it is determined that to do so is in the best interest of the COUNTY.
- h) The CONSULTANT shall sign the Work Order first and the COUNTY second. This Work Order becomes effective and binding upon execution by the COUNTY and not until then. A copy of this Work Order will be forwarded to the CONSULTANT upon execution by the COUNTY.



Billing Rates & Wage Certification

Contract Number: PS-4388-09/VFT

Date: November 2, 2009

Labor Category	Raw Hour	ly Rate	Multiplier		Billing Rate	
Project Manager	\$	51.50		2.73	\$	140.60
Senior Project Engineer	\$	51.50		2.73	\$	140.60
Project Engineer	\$	38.25		2.73	\$	104.42
Senior Designer	\$	25.40		2.73	\$	69.34
Cadd Technician	\$	18.75		2.73	\$	51.19
Clerical	\$	17.50		2.73	\$	47.78

I Certify that the wage rates listed for employees are current as of this date.

Date

"Truth in Negotiations" Certificate

This is to certify that, to the best of my knowledge and belief, the wage rates and other factual unit costs supporting the compensation (as defined in section 287.055 of the Florida Statues (otherwise known as the "Consultants' Competitive Negotiations Act" or CCNA) and required under CCNA subsection 287.055 (5) (a)) submitted to Seminole County Purchasing and Contracts Division, Contracts Section, either actually or by specific identification in writing, in support of PS- 4388 - 09 / VFT * are accurate, complete, and current as of 11/02/2009 (Date)**.

This certification includes the wage rates and other factual unit costs supporting any Work Orders or Amendments issued under the Agreement between the Consultant and the County.

Firm: Pegasus Engineering, LLC
Signature: + Multiple
Fursan Munjed, P.E.
Name: Fulsair Mulijeu, P.E.
Title: Principal
Date of execution***: 11/02/2009
Date of execution

Revised 4-7-09. BLH

^{*} Identify the proposal, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., PS No.).

^{**} Insert the day, month, and year when wage rates were submitted or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on compensation.

^{***} Insert the day, month, and year of signing.

(End of certificate)

CONTINUING CONSULTANT SERVICES AGREEMENT DESIGN OF MINOR PROJECTS WITH CONSTRUCTION COSTS LESS THAN \$1,000,000 (PS-4388-09/VFT)

THIS AGREEMENT is made and entered into this _______ day of ______, 20____, by and between PROFESSIONAL ENGINEERING CONSULTANTS, INC., duly authorized to conduct business in the State of Florida, whose address is 200 East Robinson Street, Orlando, Florida 32801, hereinafter called "CONSULTANT", and SEMINOLE COUNTY, a political subdivision of the State of Florida, whose address is Seminole County Services Building, 1101 East First Street, Sanford, Florida 32771, hereinafter called "COUNTY".

WITNESSETH:

WHEREAS, COUNTY desires to retain the services of a competent and qualified CONSULTANT to provide design of minor projects with construction costs less than \$1,000,000 in Seminole County; and

WHEREAS, COUNTY has requested and received expressions of interest for the retention of services of consultants; and

WHEREAS, CONSULTANT is competent and qualified to consultant services to COUNTY and desires to provide professional services according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, COUNTY and CONSULTANT agree as follows:

SECTION 1. SERVICES.

(a) COUNTY does hereby retain CONSULTANT to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto as Exhibit A and made a part hereof. Required services shall be specifically enumerated, described, and depicted in

the Work Orders authorizing performance of the specific project, task, or study. CONSULTANT shall also be bound by all requirements as contained in the solicitation package and all addenda thereto. This Agreement standing alone does not authorize the performance of any work or require COUNTY to place any orders for work.

(b) CONSULTANT may utilize labor categories that are not included in the fee proposal for each Work Order, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. CONSULTANT shall submit a written request to the County's Project Manager for approval of any substitution prior to the utilization of any labor category for service, and the County Project Manager's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

SECTION 2. TERM. This Agreement shall take effect on the date of its execution by COUNTY and shall run for a period of three (3) years and, at the sole option of COUNTY, may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders issued pursuant to this Agreement and prior to the expiration date. Obligations entered therein by both parties shall remain in effect until completion of the work

authorized by the Work Order.

AUTHORIZATION FOR SERVICES. SECTION 3. Authorization for performance of professional services by CONSULTANT under this Agreement shall be in the form of written Work Orders issued and executed by COUNTY and signed by CONSULTANT. A sample Work Order is attached hereto as Exhibit B. Each Work Order shall describe the services required, state the dates for commencement and completion of work, and establish the amount and method of payment. The Work Orders will be issued under and shall incorporate the terms of this Agreement. COUNTY makes no covenant or promise as to the number of available projects or that CONSULTANT will perform any project for COUNTY during the life of this Agreement. COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by COUNTY to be in the best interest of COUNTY to do so.

SECTION 4. TIME FOR COMPLETION. The services to be rendered by CONSULTANT shall be commenced as specified in such Work Orders as may be issued hereunder and shall be completed within the time specified therein.

SECTION 5. COMPENSATION. COUNTY agrees to compensate CONSULTANT for the professional services called for under this Agreement on either a "Fixed Fee Basis" or on a "Time Basis Method". The CONSULTANT shall be compensated in accordance with the rate schedule attached as Exhibit C, which includes all reimbursable expenses. The CONSULTANT shall also be required to execute a Truth in Negotiations Certificate, attached hereto as Exhibit D.

SECTION 6. REIMBURSABLE EXPENSES.

- (a) If a Work Order is issued on a Time Basis Method, then reimbursable expenses are in addition to the hourly rates. Reimbursable expenses are subject to the applicable "Not-to-Exceed" or "Limitation of Funds" amount set forth in the Work Order. Reimbursable expenses may include actual expenditures made by CONTRACTOR, his employees or his professional associates in the interest of the Project for the expenses listed in the following paragraphs:
- (1) Travel expenses in connection with the Project based on Sections 112.061(7) and (8), Florida Statutes, or its successor, and subject to the limitation listed below; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project. Reimbursement for meals, travel, vehicle mileage, tolls, and parking shall not apply to local employees of CONTRACTOR.
- A. Reimbursement for mileage shall be at the rate allowable by the Federal Internal Revenue Services. Reimbursement for local mileage, defined as within a fifty (50) mile radius of the job site, is not allowed.
- B. Car rental reimbursement is limited to compact cars for up to two (2) occupants and intermediate cars for more than two occupants.
- C. Reimbursement for lodging shall be at \$75.00 or the actual expenses for lodging at a "non-resort"-type hotel located in Seminole County, Florida.

- D. Meals shall not exceed:
 - 1. Breakfast: \$6.00 without receipts \$10.00 with receipts;
 - 2. Lunch:
 \$11.00 without receipts
 \$13.00 with receipts;
 - 3. Dinner:
 \$19.00 without receipts
 \$27.00 with receipts.
- E. Reimbursement for airfare shall be based on coach rates.
- (2) Expense of reproduction, postage, and handling of drawings and specifications are authorized at actual cost only.
- (3) If authorized in writing in advance by COUNTY, the cost of other expenditures made by CONTRACTOR in the interest of the Project.
- (b) Any reimbursable expenses under this Agreement shall be supported by a source document, such as a receipt or invoice, with the employee's name, project name, and brief explanation of the expense. All reimbursable expenses shall be itemized on the invoices.
- (c) All reimbursable expenses must be allowable, allocable to the contract, and reasonable, as solely determined by COUNTY.

SECTION 7. PAYMENT AND BILLING.

(a) If the Scope of Services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a Fixed Fee Basis. CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the negotiated Fixed Fee amount stated therein.

- (b) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Not-to Exceed amount. If a Not-to-Exceed amount is provided, CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the Not-to-Exceed amount specified in the applicable Work Order.
- Order may be issued on a Time Basis Method and contain a Limitation of Funds amount. CONSULTANT is not authorized to exceed that amount without the prior written approval of COUNTY. Said approval, if given by COUNTY, shall indicate a new Limitation of Funds amount. CONSULTANT shall advise COUNTY whenever CONSULTANT has incurred expenses on any Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount.
- (d) For Work Orders issued on a Fixed Fee Basis, CONSULTANT may invoice the amount due based on the percentage of total Work Order services actually performed and completed, but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.
- (e) For Work Orders issued on a Time Basis Method with a Not-to-Exceed amount, CONSULTANT may invoice the amount due for actual work hours performed, but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.
- (f) Payments shall be made by COUNTY to CONSULTANT when requested as work progresses for services furnished, but not more than once

monthly. Each Work Order shall be invoiced separately. At the close of each calendar month, CONSULTANT shall render to COUNTY a properly dated itemized invoice describing any services rendered, the cost of the services, the name and address of CONSULTANT, Work Order Number, Contract Number, and all other information required by this Agreement.

The original invoice and one (1) copy shall be sent to:

Director of County Finance Seminole County Board of County Commissioners Post Office Box 8080 Sanford, Florida 32772

Two (2) copies of the invoice shall be sent to:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

(g) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from CONSULTANT.

SECTION 8. GENERAL TERMS OF PAYMENT AND BILLING.

- (a) Upon satisfactory completion of work required hereunder and upon acceptance of the work by COUNTY, CONSULTANT may invoice COUNTY for the full amount of compensation provided for under the terms of this Agreement including any retainage and less any amount already paid by COUNTY. COUNTY shall pay CONSULTANT within thirty (30) days of receipt of proper invoice.
- (b) COUNTY may perform or have performed an audit of the records of CONSULTANT after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to CONSULTANT and COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to CONSULTANT may be

determined subsequent to an audit as provided for in subsections (b) and (c) of this Section, and the total compensation so determined shall be used to calculate final payment to CONSULTANT. Conduct of this audit shall not delay final payment as provided by subsection (a) of this

Section.

- (c) In addition to the above, if federal funds are used for any work under the Agreement, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of CONSULTANT which are directly pertinent to work performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.
- (d) CONSULTANT agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at CONSULTANT's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsections (b) and (c) of this Section.
- (e) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (d) of this Section, reveals any overpayment by COUNTY under the terms of the Agreement, CONSULTANT shall refund such overpayment to COUNTY within thirty (30) days of notice by COUNTY.

SECTION 9. RESPONSIBILITIES OF CONSULTANT.

(a) CONSULTANT shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.

(b) Neither COUNTY's review, approval, or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement; and CONSULTANT shall be and always remain liable to COUNTY in accordance with applicable law and Section 18 herein for any and all damages to COUNTY caused by CONSULTANT's negligent or wrongful performance of any of the services furnished under this Agreement.

SECTION 10. OWNERSHIP OF DOCUMENTS. All deliverable analysis, reference data, survey data, plans, and reports or any other form of written instrument or document that may result from CONSULTANT's services or have been created during the course of CONSULTANT's performance under this Agreement shall become the property of COUNTY after final payment is made to CONSULTANT.

SECTION 11. TERMINATION.

- (a) COUNTY may, by written notice to CONSULTANT, terminate this Agreement or any Work Order issued hereunder, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of CONSULTANT to fulfill its Agreement obligations. Upon receipt of such notice, CONSULTANT shall:
- (1) immediately discontinue all services affected unless the notice directs otherwise; and
- (2) deliver to COUNTY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process. Provided, however, CONSULTANT shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where CONSULTANT is deprived of the opportunity to complete CONSULTANT's services.
- (b) If the termination is for the convenience of COUNTY, CONSULTANT shall be paid compensation for services performed to the date of termination. If this Agreement calls for the payment based on a Fixed Fee amount, CONSULTANT shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of work, as determined solely and conclusively by COUNTY, contemplated by this Agreement.
- (c) If the termination is due to the failure of CONSULTANT to fulfill its Agreement obligations, COUNTY may take over the work and prosecute the same to completion by other Agreements or otherwise. In

such case, CONSULTANT shall be liable to COUNTY for all reasonable additional costs occasioned to COUNTY thereby. CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of CONSULTANT; provided, however, that CONSULTANT shall be responsible and liable for the actions of its subcontractors, agents, employees, and persons and entities of a similar type or nature of whom CONSULTANT is legally liable under this Agreement. Such causes may include acts of God or of the public enemy, acts of COUNTY in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without any fault or negligence of CONSULTANT.

- (d) If after notice of termination for failure to fulfill its Agreement obligations it is determined that CONSULTANT had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of this Section.
- (e) The rights and remedies of COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.
- (f) CONSULTANT my terminate this Agreement upon written notice to the COUNTY in the event of substantial failure by COUNTY to perform in accordance with the terms of this Agreement; provided, however, COUNTY shall have 14 calendar days from the receipt of the termination notice

to cure or to submit a plan for cure acceptable to CONSULTANT.

SECTION 12. AGREEMENT AND WORK ORDER IN CONFLICT. Whenever the terms of this Agreement conflict with any Work Order issued pursuant to it, the Agreement shall prevail.

SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT. CONSULTANT agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment; upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 14. NO CONTINGENT FEES. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, COUNTY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or

consideration.

SECTION 15. CONFLICT OF INTEREST.

(a) CONSULTANT agrees that it will not contract for or accept

employment for the performance of any work or service with any

individual, business, corporation, or government unit that would create

a conflict of interest in the performance of its obligations pursuant to

this Agreement with COUNTY.

(b) CONSULTANT agrees that it will neither take any action nor

engage in any conduct that would cause any COUNTY employee to violate

the provisions of Chapter 112, Florida Statutes, relating to ethics in

government.

(c) In the event that CONSULTANT causes or in any way promotes or

encourages a COUNTY officer, employee, or agent to violate Chapter 112,

Florida Statutes, COUNTY shall have the right to terminate this

Agreement.

SECTION 16. ASSIGNMENT. This Agreement, or any interest herein,

shall not be assigned, transferred, or otherwise encumbered, under any

circumstances, by the parties hereto without prior written consent of

the other party and in such cases only by a document of equal dignity

herewith.

SECTION 17. SUBCONTRACTORS. In the event that CONSULTANT, during

the course of the work under this Agreement, requires the services of

any subcontractors or other professional associates in connection with

services covered by this Agreement, CONSULTANT must first secure the

prior express written approval of COUNTY. If subcontractors or other

professional associates are required in connection with the services

covered by this Agreement, CONSULTANT shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 18. INDEMNIFICATION OF COUNTY. CONSULTANT agrees to hold harmless, replace, and indemnify COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by CONSULTANT.

SECTION 19. INSURANCE.

- (a) GENERAL. CONSULTANT shall at its own cost procure the insurance required under this Section.
- CONSULTANT shall furnish COUNTY with a Certificate of Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation Employer's Liability and Commercial General Liability). COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall state that the Insurer shall endeavor to provide the COUNTY not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by CONSULTANT shall provide COUNTY with a renewal CONSULTANT, replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.
- (2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance

is in full compliance with the insurance requirements of the Agreement.

In lieu of the statement on the Certificate, CONSULTANT shall (at the

option of COUNTY) submit a sworn notarized statement from an authorized

representative of the insurer that the Certificate is being provided in

accordance with the Agreement and that the insurance is in full

compliance with the requirements of the Agreement. The Certificate shall

have this Agreement number clearly marked on its face.

(3) In addition to providing the Certificate of Insurance,

if required by COUNTY, CONSULTANT shall, within thirty (30) days after

receipt of the request, provide COUNTY with a certified copy of each of

the policies of insurance providing the coverage required by this

Section.

(4) Neither approval by COUNTY nor failure to disapprove

the insurance furnished by a CONSULTANT shall relieve CONSULTANT of its

full responsibility for performance of any obligation including

CONSULTANT's indemnification of COUNTY under this Agreement.

(b) INSURANCE COMPANY REQUIREMENTS. Insurance companies

providing the insurance under this Agreement must meet the following

requirements:

(1) Companies issuing policies (other than Workers'

Compensation) must be authorized to conduct business in the State of

Florida and prove same by maintaining Certificates of Authority issued

to the companies by the Department of Insurance of the State of Florida.

Policies for Workers' Compensation may be issued by companies authorized

as a group self-insurer by Section 624.4621, Florida Statutes.

- (2) In addition, such companies other than those authorized by Section 624.4621, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.
- providing the insurance coverage required by this Agreement, an insurance company shall: (i) lose its Certificate of Authority; (ii) no longer comply with Section 624.4621, Florida Statutes; or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, CONSULTANT shall, as soon as CONSULTANT has knowledge of any such circumstance, immediately notify COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as CONSULTANT has replaced the unacceptable insurer with an insurer acceptable to COUNTY, CONSULTANT shall be deemed to be in default of this Agreement.
- SPECIFICATIONS. Without limiting any of the obligations or liability of CONSULTANT, CONSULTANT shall, at its sole expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this Except as otherwise specified in the Agreement, the subsection. insurance shall become effective prior to the commencement of work by CONSULTANT and shall be maintained in force until the Agreement The amounts and types of insurance shall conform to completion date. the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) CONSULTANT's insurance shall cover CONSULTANT for liability which would be covered by the latest edition of the standard Workers' Compensation Policy as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. CONSULTANT will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both CONSULTANT and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act, and any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00 (Each Accident) \$1,000,000.00 (Disease-Policy Limit) \$ 500,000.00 (Disease-Each Employee)

(2) Commercial General Liability.

- (A) CONSULTANT's insurance shall cover CONSULTANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.
- (B) The minimum limits to be maintained by CONSULTANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

LIMITS

General Aggregate

Personal & Advertising Injury Limit Each Occurrence Limit Three (3) Times the Each-Occurrence Limit \$1,000,000.00

\$1,000,000.00

- (3) <u>Professional Liability Insurance</u>. CONSULTANT shall carry professional liability insurance with limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).
- (d) <u>COVERAGE</u>. The insurance provided by CONSULTANT pursuant to this Agreement shall apply on a primary basis, and any other insurance or self-insurance maintained by COUNTY or COUNTY's officials, officers, or employees shall be in excess of and not contributing to the insurance provided by or on behalf of CONSULTANT.
- (e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The

Professional Liability insurance policy must be on an occurrence basis or claims-made basis. If a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve CONSULTANT, its employees, or its agents of liability from any obligation under a Section or any other portions of this Agreement.

SECTION 20. DISPUTE RESOLUTION.

- (a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust COUNTY dispute resolution procedures prior to filing suit or otherwise pursuing legal remedies county dispute resolution procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code. Contract claims include all controversies, except disputes addressed by the "Prompt Payment Procedures," arising under this Agreement within the dispute resolution procedures set forth in Section 8.1539, "Contract Claims," Seminole County Administrative Code.
- (b) CONSULTANT agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in COUNTY dispute resolution procedures set forth in subsection (a) above of which CONSULTANT had knowledge and failed to present during COUNTY dispute resolution procedures.

exhausted and a suit is filed or legal remedies are otherwise pursued, the parties shall exercise best efforts to resolve disputes through voluntary mediation. Mediator selection and the procedures to be employed in voluntary mediation shall be mutually acceptable to the parties. Costs of voluntary mediation shall be shared equally among the parties participating in the mediation.

SECTION 21. REPRESENTATIVES OF COUNTY AND CONSULTANT.

- (a) It is recognized that questions in the day-to-day conduct of performance pursuant to this Agreement will arise. COUNTY shall designate in writing and shall advise CONSULTANT in writing of one (1) or more of its employees to whom all communications pertaining to the day-to-day conduct of this Agreement shall be addressed. The designated representative shall have the authority to transmit instructions, receive information, and interpret and define COUNTY's policy and decisions pertinent to the work covered by this Agreement.
- (b) CONSULTANT shall at all times during the normal work week designate or appoint one or more representatives of CONSULTANT who are authorized to act on behalf of and bind CONSULTANT regarding all matters involving the conduct of the performance pursuant to this Agreement and shall keep COUNTY continually and effectively advised of such designation.

SECTION 22. ALL PRIOR AGREEMENTS SUPERSEDED. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments,

agreements, or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral

SECTION 23. MODIFICATIONS, AMENDMENTS OR ALTERATIONS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

or written.

SECTION 24. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties or as constituting CONSULTANT (including its officers, employees, and agents) an agent, representative, or employee of COUNTY for any purpose, or in any manner, whatsoever. CONSULTANT is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

SECTION 25. EMPLOYEE STATUS. Persons employed by CONSULTANT in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to COUNTY's officers and employees either by operation of law or by COUNTY.

SECTION 26. SERVICES NOT PROVIDED FOR. No claim for services furnished by CONSULTANT not specifically provided for herein shall be honored by COUNTY.

SECTION 27. PUBLIC RECORDS LAW. CONSULTANT acknowledges COUNTY's obligations under Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONSULTANT acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 28. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, CONSULTANT shall abide by all applicable statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations statute a material breach of this Agreement and shall entitle COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to CONSULTANT.

notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For COUNTY:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

For CONSULTANT:

ATTEST:

Professional Engineering Consultants, Inc. 200 E. Robinson Street Orlando, Florida 32801

SECTION 30. RIGHTS AT LAW RETAINED. The rights and remedies of COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date below written for execution by COUNTY.

PROFESSIONAL ENGINEERING

	CONSULANTS, INC.			
, Secretary	KENNETH R. HOOPER, President			
(CORPORATE SEAL)	Date:			

[Balance of this page left intentionally blank; County attestation on page 25 of 25]

ATTEST: B	OARD
ATTEST: B	OARD

OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA

	By:
MARYANNE MORSE	BOB DALLARI, Chairman
Clerk to the Board of	
County Commissioners of	Date:
Seminole County, Florida.	
For use and reliance	As authorized for execution by
of Seminole County only.	the Board of County Commissioners
	at their, 20
Approved as to form and	regular meeting.
legal sufficiency.	
County Attorney	
AEC/lpk	

11/13/09 12/10/09 12/24/09

P:\Users\Legal Secretary CSB\Purchasing 2009\Agreements\PS-4388 PEC.docx

Attachments:

Exhibit A - Scope of Services

Exhibit B - Sample Work Order

Exhibit C - Rate Schedule

Exhibit D - Truth in Negotiations Certificate

Exhibit A

Scope of Services

Continuous Professional Services Contract for Public Works Minor Projects Construction Cost Less than One Million Dollar

Seminole County is requesting continuing services for professional services as defined by Florida Statue 287.055 (CCNA). Under CCNA, work orders are currently limited by construction costs of \$1,000,000 or study costs of \$50,000.

It is Seminole County's desire to retain multiple consultants to perform, but not be limited to construction plan preparation and environmental and drainage permitting for minor projects. Some projects will require preliminary and final design phases and intensive sub-basin and environmental permitting.

The work orders under this contract will be inclusive of surveying, soil and geotechnical analysis, structure analysis, traffic analysis and any other analysis that would be needed to produce a set of construction plans. The projects will include but not limited to:

- Roadway Reconstruction Projects
- Roadway Traffic Safety Projects
- Sidewalk Projects
- Intersection Improvements
- Bridge replacements
- Stormwater/Water Quality Improvement Projects
- Stormwater Basin Studies
- Traffic signal design
- Traffic Studies
- Preliminary Engineering Studies
- ITS Services (includes fiber infrastructure as-built development, GPS services and fiber attachment agreements)
- Other Miscellaneous Roadway Improvements

Board of County Commissioners SEMINOLE COUNTY, FLORIDA

WORK ORDER

Work Order Number: Master Agreement No.: ___ Master Agreement Title: ___ Project Title: Consultant: Address: ATTACHMENTS TO THIS WORK ORDER: METHOD OF COMPENSATION: [] drawings/plans/specifications [] fixed fee basis] scope of services [] time basis-not-to-exceed] special conditions [] time basis-limitation of funds [] retainage shall be withheld TIME FOR COMPLETION: The services to be provided by the CONSULTANT shall commence upon execution of this Work Order by the parties, and shall be completed within <u>calendar days</u> from the effective date of this Work Order. Failure to meet the completion time shall be grounds for Termination of both the Work Order and the Master Agreement for Default. Work Order Amount: ______ DOLLARS (\$) IN WITNESS WHEREOF, the parties hereto have made and executed this Work Order on this _____ day of ______, 20_____, for the purposes stated herein. (THIS SECTION TO BE COMPLETED BY THE COUNTY) ATTEST: Consultant , Secretary , President (CORPORATE SEAL) Date: BOARD OF COUNTY COMMISSIONERS SEMINOLE COUNTY, FLORIDA **WITNESSES:** , Procurement Supervisor (Procurement Analyst) Date: As authorized by Section 8.153 Seminole (Procurement Analyst) County Administrative Code. ON #____ OC #____

Page 1 of 3

WORK ORDER TERMS AND CONDITIONS

- a) Execution of this Work Order by the COUNTY shall serve as authorization for the CONSULTANT to provide, for the stated project, professional services as set out in the Scope of Services attached as Exhibit "A" to the Master Agreement cited on the face of this Work Order and as further delineated in the attachments listed on this Work Order.
- b) Term: This Work Order shall take effect on the date of its execution by the COUNTY and expires upon final delivery, inspection, acceptance, and release of the final payments and encumbrances of the last approved amount of this Work Order, unless terminated earlier in accordance with the termination provisions herein.
- c) The CONSULTANT shall provide said services pursuant to this Work Order, its Attachments, and the cited Master Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety.
- d) Whenever the Work Order conflicts with the cited Master Agreement, the Master Agreement shall prevail.
- e) METHOD OF COMPENSATION If the compensation is based on a:
 - (i) FIXED FEE BASIS, then the Work Order Amount becomes the Fixed Fee Amount and the CONSULTANT shall perform all work required by this Work Order for the Fixed Fee Amount. The Fixed Fee is an all-inclusive Firm Fixed Price binding the CONSULTANT to complete the work for the Fixed Fee Amount regardless of the costs of performance. The work to be performed by the CONSULTANT shall be based on the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project. In no event shall the CONSULTANT be paid more than the Fixed Fee Amount.
 - (ii) TIME BASIS WITH A NOT-TO-EXCEED AMOUNT, then the Work Order Amount becomes the Not-to-Exceed Amount and the CONSULTANT shall perform all the work required by this Work Order for a sum not exceeding the Not-to-Exceed Amount. In no event is the CONSULTANT authorized to incur expenses exceeding the not-to-exceed amount without the express written consent of the COUNTY. Such consent will normally be in the form of an Amendment to this Work Order. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project.
 - (iii) TIME BASIS WITH A LIMITATION OF FUNDS AMOUNT, then the Work Order Amount becomes the Limitation of Funds amount and the CONSULTANT is not authorized to exceed the Limitation of Funds amount without prior written approval of the COUNTY. Such approval, if given by the COUNTY, shall indicate a new Limitation of Funds amount. The CONSULTANT shall advise the COUNTY whenever the CONSULTANT has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
 - (iv) The CONSULTANT may utilize labor categories that are not included in the attached fee proposal, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) or Fixed Fee Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. The CONSULTANT shall submit a written request to the County for approval of any substitution prior to the utilization of any labor category for service, and the County's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and

their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

- f) Payment to the CONSULTANT shall be made by the COUNTY in strict accordance with the payment terms of the referenced Master Agreement.
- g) It is expressly understood by the CONSULTANT that this Work Order, until executed by the COUNTY, does not authorize the performance of any services by the CONSULTANT and that the COUNTY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Work Order; if it is determined that to do so is in the best interest of the COUNTY.
- h) The CONSULTANT shall sign the Work Order first and the COUNTY second. This Work Order becomes effective and binding upon execution by the COUNTY and not until then. A copy of this Work Order will be forwarded to the CONSULTANT upon execution by the COUNTY.

Professional Engineering Consultants, Inc. Salary Rates PS-4388-09/VFT

Labor Category	Raw Hourly Rate	Martinting	D'II' D
	Naw Hourty Nate	<u>Multiplier</u>	Billing Rate
Officer	\$60.00	2.9	\$174.00
Project Manager	\$55.00	2.9	\$159.50
Senior Project Engineer	\$52.00	2.9	\$150.80
Project Engineer	\$33.00	2.9	\$95.70
Senior Designer	\$30.00	2.9	\$87.00
CADD Designer / Technician	\$22.00	2.9	\$63.80
Planning Manager	\$28.00	2.9	\$81.20
Word Processing	\$23.00	2.9	\$66.70
Survey			
2-Man Crew	\$33.00	2.9	\$95.70
3-Man Crew	\$47.00	2.9	\$136.30
4-Man Crew	\$56.00	2.9	\$162.40
			y . Jule 10
Surveyor / Mapper PSM	\$37.00	2.9	\$107.30

I hereby certify that the current salary / hourly rates shown above are the true and accurate rates being paid to the employees as of their recent effective payroll date.

Kenneth R. Hooper, President

11-16-07

Date

"Truth in Negotiations" Certificate

This is to certify that, to the best of my knowledge and belief, the wage rates and other factual unit costs supporting the compensation (as defined in section 287.055 of the Florida Statues (otherwise known as the "Consultants' Competitive Negotiations Act" or CCNA) and required under CCNA subsection 287.055 (5) (a)) submitted to Seminole County Purchasing and Contracts Division, Contracts Section, either actually or by specific identification in writing, in support of PS-4388 - 09 * are accurate, complete, and current as of October 26, 2009 (Date)**.

This certification includes the wage rates and other factual unit costs supporting any Work Orders or Amendments issued under the Agreement between the Consultant and the County.

Dunforgianal Engineering Community to

Firm: Frotessional Engineering Consultants, Inc.
Signature: Kniett K. Horope
Name: Kenneth R. Hooper
Title: President
Date of execution***: October 26, 2009

Revised 4-7-09. BLH

^{*} Identify the proposal, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., PS No.).

^{**} Insert the day, month, and year when wage rates were submitted or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on compensation.

^{***} Insert the day, month, and year of signing.

(End of certificate)

CONTINUING CONSULTANT SERVICES AGREEMENT DESIGN OF MINOR PROJECTS WITH CONSTRUCTION COSTS LESS THAN \$1,000,000 (PS-4388-09/VFT)

THIS 2	AGREEMENT is	made and ent	tered into	this		day of
	, 20	_, by and b	etween REY	NOLDS SMI	TH AND	HILLS,
INC., duly a	authorized to	conduct busin	ess in the	State of	Florida,	whose
address is	1000 Legions	Place, Sui	te 800, O	rlando, 1	Florida	32801,
hereinafter	called "CONS	SULTANT", an	d seminole	E COUNTY,	a pol	itical
subdivision	of the State	of Florida,	whose add:	ress is S	eminole	County
Services Bu	ilding, 1101	East First	Street, S	anford,	Florida	32771,
hereinafter	called "COUNTY	711				

WITNESSETH:

WHEREAS, COUNTY desires to retain the services of a competent and qualified CONSULTANT to provide design of minor projects with construction costs less than \$1,000,000 in Seminole County; and

WHEREAS, COUNTY has requested and received expressions of interest for the retention of services of consultants; and

WHEREAS, CONSULTANT is competent and qualified to consultant services to COUNTY and desires to provide professional services according to the terms and conditions stated herein,

NOW, THEREFORE, in consideration of the mutual understandings and covenants set forth herein, COUNTY and CONSULTANT agree as follows:

SECTION 1. SERVICES.

(a) COUNTY does hereby retain CONSULTANT to furnish professional services and perform those tasks as further described in the Scope of Services attached hereto as Exhibit A and made a part hereof. Required services shall be specifically enumerated, described, and depicted in

the Work Orders authorizing performance of the specific project, task, or study. CONSULTANT shall also be bound by all requirements as contained in the solicitation package and all addenda thereto. This Agreement standing alone does not authorize the performance of any work or require COUNTY to place any orders for work.

(b) CONSULTANT may utilize labor categories that are not included in the fee proposal for each Work Order, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. CONSULTANT shall submit a written request to the County's Project Manager for approval of any substitution prior to the utilization of any labor category for service, and the County Project Manager's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

SECTION 2. TERM. This Agreement shall take effect on the date of its execution by COUNTY and shall run for a period of three (3) years and, at the sole option of COUNTY, may be renewed for two (2) successive periods not to exceed one (1) year each. Expiration of the term of this Agreement shall have no effect upon Work Orders issued pursuant to this Agreement and prior to the expiration date. Obligations entered therein by both parties shall remain in effect until completion of the work

authorized by the Work Order.

SECTION 3. AUTHORIZATION FOR SERVICES. Authorization for performance of professional services by CONSULTANT under this Agreement shall be in the form of written Work Orders issued and executed by COUNTY and signed by CONSULTANT. A sample Work Order is attached hereto Each Work Order shall describe the services required, as Exhibit B. state the dates for commencement and completion of work, and establish the amount and method of payment. The Work Orders will be issued under and shall incorporate the terms of this Agreement. COUNTY makes no covenant or promise as to the number of available projects or that CONSULTANT will perform any project for COUNTY during the life of this Agreement. COUNTY reserves the right to contract with other parties for the services contemplated by this Agreement when it is determined by COUNTY to be in the best interest of COUNTY to do so.

SECTION 4. TIME FOR COMPLETION. The services to be rendered by CONSULTANT shall be commenced as specified in such Work Orders as may be issued hereunder and shall be completed within the time specified therein.

SECTION 5. COMPENSATION. COUNTY agrees to compensate CONSULTANT for the professional services called for under this Agreement on either a "Fixed Fee Basis" or on a "Time Basis Method". The CONSULTANT shall be compensated in accordance with the rate schedule attached as Exhibit C, which includes all reimbursable expenses. The CONSULTANT shall also be required to execute a Truth in Negotiations Certificate, attached hereto as Exhibit D.

SECTION 6. REIMBURSABLE EXPENSES.

- (a) If a Work Order is issued on a Time Basis Method, then reimbursable expenses are in addition to the hourly rates. Reimbursable expenses are subject to the applicable "Not-to-Exceed" or "Limitation of Funds" amount set forth in the Work Order. Reimbursable expenses may include actual expenditures made by CONTRACTOR, his employees or his professional associates in the interest of the Project for the expenses listed in the following paragraphs:
- (1) Travel expenses in connection with the Project based on Sections 112.061(7) and (8), Florida Statutes, or its successor, and subject to the limitation listed below; long distance calls and telegrams; and fees paid for securing approval of authorities having jurisdiction over the Project. Reimbursement for meals, travel, vehicle mileage, tolls, and parking shall not apply to local employees of CONTRACTOR.
- A. Reimbursement for mileage shall be at the rate allowable by the Federal Internal Revenue Services. Reimbursement for local mileage, defined as within a fifty (50) mile radius of the job site, is not allowed.
- B. Car rental reimbursement is limited to compact cars for up to two (2) occupants and intermediate cars for more than two occupants.
- C. Reimbursement for lodging shall be at \$75.00 or the actual expenses for lodging at a "non-resort"-type hotel located in Seminole County, Florida.

- D. Meals shall not exceed:
 - 1. Breakfast: \$6.00 without receipts \$10.00 with receipts;
 - 2. Lunch:
 \$11.00 without receipts
 \$13.00 with receipts;
 - 3. Dinner: \$19.00 without receipts \$27.00 with receipts.
- E. Reimbursement for airfare shall be based on coach rates.
- (2) Expense of reproduction, postage, and handling of drawings and specifications are authorized at actual cost only.
- (3) If authorized in writing in advance by COUNTY, the cost of other expenditures made by CONTRACTOR in the interest of the Project.
- (b) Any reimbursable expenses under this Agreement shall be supported by a source document, such as a receipt or invoice, with the employee's name, project name, and brief explanation of the expense. All reimbursable expenses shall be itemized on the invoices.
- (c) All reimbursable expenses must be allowable, allocable to the contract, and reasonable, as solely determined by COUNTY.

SECTION 7. PAYMENT AND BILLING.

(a) If the Scope of Services required to be performed by a Work Order is clearly defined, the Work Order shall be issued on a Fixed Fee Basis. CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the negotiated Fixed Fee amount stated therein.

- (b) If the Scope of Services is not clearly defined, the Work Order may be issued on a Time Basis Method and contain a Not-to Exceed amount. If a Not-to-Exceed amount is provided, CONSULTANT shall perform all work required by the Work Order, but in no event shall CONSULTANT be paid more than the Not-to-Exceed amount specified in the applicable Work Order.
- Order may be issued on a Time Basis Method and contain a Limitation of Funds amount. CONSULTANT is not authorized to exceed that amount without the prior written approval of COUNTY. Said approval, if given by COUNTY, shall indicate a new Limitation of Funds amount. CONSULTANT shall advise COUNTY whenever CONSULTANT has incurred expenses on any Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount.
- (d) For Work Orders issued on a Fixed Fee Basis, CONSULTANT may invoice the amount due based on the percentage of total Work Order services actually performed and completed, but in no event shall the invoice amount exceed a percentage of the Fixed Fee amount equal to a percentage of the total services actually completed.
- (e) For Work Orders issued on a Time Basis Method with a Not-to-Exceed amount, CONSULTANT may invoice the amount due for actual work hours performed, but in no event shall the invoice amount exceed a percentage of the Not-to-Exceed amount equal to a percentage of the total services actually completed.
- (f) Payments shall be made by COUNTY to CONSULTANT when requested as work progresses for services furnished, but not more than once

monthly. Each Work Order shall be invoiced separately. At the close of each calendar month, CONSULTANT shall render to COUNTY a properly dated itemized invoice describing any services rendered, the cost of the services, the name and address of CONSULTANT, Work Order Number, Contract Number, and all other information required by this Agreement.

The original invoice and one (1) copy shall be sent to:

Director of County Finance Seminole County Board of County Commissioners Post Office Box 8080 Sanford, Florida 32772

Two (2) copies of the invoice shall be sent to:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

(g) Payment shall be made after review and approval by COUNTY within thirty (30) days of receipt of a proper invoice from CONSULTANT.

SECTION 8. GENERAL TERMS OF PAYMENT AND BILLING.

- (a) Upon satisfactory completion of work required hereunder and upon acceptance of the work by COUNTY, CONSULTANT may invoice COUNTY for the full amount of compensation provided for under the terms of this Agreement including any retainage and less any amount already paid by COUNTY. COUNTY shall pay CONSULTANT within thirty (30) days of receipt of proper invoice.
- (b) COUNTY may perform or have performed an audit of the records of CONSULTANT after final payment to support final payment hereunder. This audit would be performed at a time mutually agreeable to CONSULTANT and COUNTY subsequent to the close of the final fiscal period in which the last work is performed. Total compensation to CONSULTANT may be

determined subsequent to an audit as provided for in subsections (b) and (c) of this Section, and the total compensation so determined shall be used to calculate final payment to CONSULTANT. Conduct of this audit shall not delay final payment as provided by subsection (a) of this Section.

- (c) In addition to the above, if federal funds are used for any work under the Agreement, the Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers, and records of CONSULTANT which are directly pertinent to work performed under this Agreement for purposes of making audit, examination, excerpts, and transcriptions.
- (d) CONSULTANT agrees to maintain all books, documents, papers, accounting records, and other evidence pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement and to make such materials available at CONSULTANT's office at all reasonable times during the Agreement period and for five (5) years from the date of final payment under the contract for audit or inspection as provided for in subsections (b) and (c) of this Section.
- (e) In the event any audit or inspection conducted after final payment, but within the period provided in paragraph (d) of this Section, reveals any overpayment by COUNTY under the terms of the Agreement, CONSULTANT shall refund such overpayment to COUNTY within thirty (30) days of notice by COUNTY.

SECTION 9. RESPONSIBILITIES OF CONSULTANT.

- (a) CONSULTANT shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy, and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by CONSULTANT under this Agreement. CONSULTANT shall, without additional compensation, correct or revise any errors or deficiencies in his plans, analysis, data, reports, designs, drawings, specifications, and any and all other services of whatever type or nature.
- (b) Neither COUNTY's review, approval, or acceptance of, nor payment for, any of the services required shall be construed to operate as a waiver of any rights under this Agreement nor of any cause of action arising out of the performance of this Agreement; and CONSULTANT shall be and always remain liable to COUNTY in accordance with applicable law and Section 18 herein for any and all damages to COUNTY caused by CONSULTANT's negligent or wrongful performance of any of the services furnished under this Agreement.

SECTION 10. OWNERSHIP OF DOCUMENTS. All deliverable analysis, reference data, survey data, plans, and reports or any other form of written instrument or document that may result from CONSULTANT's services or have been created during the course of CONSULTANT's performance under this Agreement shall become the property of COUNTY after final payment is made to CONSULTANT.

SECTION 11. TERMINATION.

- (a) COUNTY may, by written notice to CONSULTANT, terminate this Agreement or any Work Order issued hereunder, in whole or in part, at any time, either for COUNTY's convenience or because of the failure of CONSULTANT to fulfill its Agreement obligations. Upon receipt of such notice, CONSULTANT shall:
- (1) immediately discontinue all services affected unless the notice directs otherwise; and
- (2) deliver to COUNTY all data, drawings, specifications, reports, estimates, summaries, and any and all such other information and materials of whatever type or nature as may have been accumulated by CONSULTANT in performing this Agreement, whether completed or in process. Provided, however, CONSULTANT shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where CONSULTANT is deprived of the opportunity to complete CONSULTANT's services.
- (b) If the termination is for the convenience of COUNTY, CONSULTANT shall be paid compensation for services performed to the date of termination. If this Agreement calls for the payment based on a Fixed Fee amount, CONSULTANT shall be paid no more than a percentage of the Fixed Fee amount equivalent to the percentage of the completion of work, as determined solely and conclusively by COUNTY, contemplated by this Agreement.
- (c) If the termination is due to the failure of CONSULTANT to fulfill its Agreement obligations, COUNTY may take over the work and prosecute the same to completion by other Agreements or otherwise. In

such case, CONSULTANT shall be liable to COUNTY for all reasonable additional costs occasioned to COUNTY thereby. CONSULTANT shall not be liable for such additional costs if the failure to perform the Agreement arises without any fault or negligence of CONSULTANT; provided, however, that CONSULTANT shall be responsible and liable for the actions of its subcontractors, agents, employees, and persons and entities of a similar type or nature of whom CONSULTANT is legally liable under this Agreement. Such causes may include acts of God or of the public enemy, acts of COUNTY in its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but, in every case, the failure to perform must be beyond the control and without any fault or negligence of CONSULTANT.

- (d) If after notice of termination for failure to fulfill its Agreement obligations it is determined that CONSULTANT had not so failed, the termination shall be conclusively deemed to have been effected for the convenience of COUNTY. In such event, adjustment in the Agreement price shall be made as provided in subsection (b) of this Section.
- (e) The rights and remedies of COUNTY provided for in this Section are in addition and supplemental to any and all other rights and remedies provided by law or under this Agreement.
- (f) CONSULTANT my terminate this Agreement upon written notice to the COUNTY in the event of substantial failure by COUNTY to perform in accordance with the terms of this Agreement; provided, however, COUNTY shall have 14 calendar days from the receipt of the termination notice

to cure or to submit a plan for cure acceptable to CONSULTANT.

SECTION 12. AGREEMENT AND WORK ORDER IN CONFLICT. Whenever the terms of this Agreement conflict with any Work Order issued pursuant to it, the Agreement shall prevail.

SECTION 13. EQUAL OPPORTUNITY EMPLOYMENT. CONSULTANT agrees that it will not discriminate against any employee or applicant for employment for work under this Agreement because of race, color, religion, sex, age, disability, or national origin and will take steps to ensure that applicants are employed, and employees are treated during employment, without regard to race, color, religion, sex, age, disability, or national origin. This provision shall include, but not be limited to, the following: employment; upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

SECTION 14. NO CONTINGENT FEES. CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from award or making of this Agreement. For the breach or violation of this provision, COUNTY shall have the right to terminate the Agreement at its sole discretion, without liability and to deduct from the Agreement price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or

consideration.

SECTION 15. CONFLICT OF INTEREST.

(a) CONSULTANT agrees that it will not contract for or accept

employment for the performance of any work or service with any

individual, business, corporation, or government unit that would create

a conflict of interest in the performance of its obligations pursuant to

this Agreement with COUNTY.

(b) CONSULTANT agrees that it will neither take any action nor

engage in any conduct that would cause any COUNTY employee to violate

the provisions of Chapter 112, Florida Statutes, relating to ethics in

government.

(c) In the event that CONSULTANT causes or in any way promotes or

encourages a COUNTY officer, employee, or agent to violate Chapter 112,

Florida Statutes, COUNTY shall have the right to terminate this

Agreement.

SECTION 16. ASSIGNMENT. This Agreement, or any interest herein,

shall not be assigned, transferred, or otherwise encumbered, under any

circumstances, by the parties hereto without prior written consent of

the other party and in such cases only by a document of equal dignity

herewith.

SECTION 17. SUBCONTRACTORS. In the event that CONSULTANT, during

the course of the work under this Agreement, requires the services of

any subcontractors or other professional associates in connection with

services covered by this Agreement, CONSULTANT must first secure the

prior express written approval of COUNTY. If subcontractors or other

professional associates are required in connection with the services

covered by this Agreement, CONSULTANT shall remain fully responsible for the services of subcontractors or other professional associates.

SECTION 18. INDEMNIFICATION OF COUNTY. CONSULTANT agrees to hold harmless, replace, and indemnify COUNTY, its commissioners, officers, employees, and agents against any and all claim, losses, damages or lawsuits for damages, arising from the negligent, reckless, or intentionally wrongful provision of services hereunder by CONSULTANT.

SECTION 19. INSURANCE.

- (a) GENERAL. CONSULTANT shall at its own cost procure the insurance required under this Section.
- CONSULTANT shall furnish COUNTY with a Certificate of (1)Insurance signed by an authorized representative of the insurer evidencing the insurance required by this Section (Professional Liability, Workers' Compensation Limbboyer's Liability and Commercial General Liability). COUNTY, its officials, officers, and employees shall be named additional insured under the Commercial General Liability policy. The Certificate of Insurance shall state that the Insurer shall endeavor to provide the COUNTY not less than thirty (30) days written notice prior to the cancellation or restriction of coverage. Until such time as the insurance is no longer required to be maintained by CONSULTANT, CONSULTANT shall provide COUNTY with a renewal replacement Certificate of Insurance not less than thirty (30) days before expiration or replacement of the insurance for which a previous certificate has been provided.
- (2) The Certificate shall contain a statement that it is being provided in accordance with the Agreement and that the insurance

is in full compliance with the insurance requirements of the Agreement.

In lieu of the statement on the Certificate, CONSULTANT shall (at the

option of COUNTY) submit a sworn notarized statement from an authorized

representative of the insurer that the Certificate is being provided in

accordance with the Agreement and that the insurance is in full

compliance with the requirements of the Agreement. The Certificate shall

have this Agreement number clearly marked on its face.

(3) In addition to providing the Certificate of Insurance,

if required by COUNTY, CONSULTANT shall, within thirty (30) days after

receipt of the request, provide COUNTY with a certified copy of each of

the policies of insurance providing the coverage required by this

Section.

(4) Neither approval by COUNTY nor failure to disapprove

the insurance furnished by a CONSULTANT shall relieve CONSULTANT of its

full responsibility for performance of any obligation including

CONSULTANT's indemnification of COUNTY under this Agreement.

(b) INSURANCE COMPANY REQUIREMENTS. Insurance companies

providing the insurance under this Agreement must meet the following

requirements:

(1) Companies issuing policies (other than Workers'

Compensation) must be authorized to conduct business in the State of

Florida and prove same by maintaining Certificates of Authority issued

to the companies by the Department of Insurance of the State of Florida.

Policies for Workers' Compensation may be issued by companies authorized

as a group self-insurer by Section 624.4621, Florida Statutes.

(2) In addition, such companies other than those authorized by Section 624.4621, Florida Statutes, shall have and maintain a Best's Rating of "A-" or better and a Financial Size Category of "VII" or better according to A.M. Best Company.

(3) If during the period which an insurance company is providing the insurance coverage required by this Agreement, an insurance company shall: (i) lose its Certificate of Authority; (ii) no longer comply with Section 624.4621, Florida Statutes; or (iii) fail to maintain the requisite Best's Rating and Financial Size Category, CONSULTANT shall, as soon as CONSULTANT has knowledge of any such circumstance, immediately notify COUNTY and immediately replace the insurance coverage provided by the insurance company with a different insurance company meeting the requirements of this Agreement. Until such time as CONSULTANT has replaced the unacceptable insurer with an insurer acceptable to COUNTY, CONSULTANT shall be deemed to be in default of this Agreement.

(C) SPECIFICATIONS. Without limiting any of the other obligations or liability of CONSULTANT, CONSULTANT shall, at its sole expense, procure, maintain, and keep in force amounts and types of insurance conforming to the minimum requirements set forth in this Except as otherwise specified in the Agreement, the subsection. insurance shall become effective prior to the commencement of work by CONSULTANT and shall be maintained in force until the Agreement completion date. The amounts and types of insurance shall conform to the following minimum requirements.

(1) Workers' Compensation/Employer's Liability.

(A) CONSULTANT's insurance shall cover CONSULTANT for liability which would be covered by the latest edition of the standard Workers' Compensation Policy as filed for use in Florida by the National Council on Compensation Insurance, without restrictive endorsements. CONSULTANT will also be responsible for procuring proper proof of coverage from its subcontractors of every tier for liability which is a result of a Workers' Compensation injury to the subcontractor's employees. The minimum required limits to be provided by both CONSULTANT and its subcontractors are outlined in subsection (c) below. In addition to coverage for the Florida Workers' Compensation Act, where appropriate, coverage is to be included for the United States Longshoremen and Harbor Workers' Compensation Act, Federal Employers' Liability Act, and any other applicable Federal or State law.

(B) Subject to the restrictions of coverage found in the standard Workers' Compensation Policy, there shall be no maximum limit on the amount of coverage for liability imposed by the Florida Workers' Compensation Act, the United States Longshoremen's and Harbor Workers' Compensation Act, or any other coverage customarily insured under Part One of the standard Workers' Compensation Policy.

(C) The minimum amount of coverage under Part Two of the standard Workers' Compensation Policy shall be:

\$ 500,000.00 (Each Accident) \$1,000,000.00 (Disease-Policy Limit) \$ 500,000.00 (Disease-Each Employee)

(2) Commercial General Liability.

- (A) CONSULTANT's insurance shall cover CONSULTANT for those sources of liability which would be covered by the latest edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office, without the attachment of restrictive endorsements other than the elimination of Coverage C, Medical Payment, and the elimination of coverage for Fire Damage Legal Liability.
- (B) The minimum limits to be maintained by CONSULTANT (inclusive of any amounts provided by an Umbrella or Excess policy) shall be as follows:

LIMITS

General Aggregate

Personal & Advertising Injury Limit
Each Occurrence Limit

Three (3) Times the Each-Occurrence Limit \$1,000,000.00

\$1,000,000.00

- (3) <u>Professional Liability Insurance</u>. CONSULTANT shall carry professional liability insurance with limits of not less than ONE MILLION AND NO/100 DOLLARS (\$1,000,000.00).
- (d) <u>COVERAGE</u>. The insurance provided by CONSULTANT pursuant to this Agreement shall apply on a primary basis, and any other insurance or self-insurance maintained by COUNTY or COUNTY's officials, officers, or employees shall be in excess of and not contributing to the insurance provided by or on behalf of CONSULTANT.
- (e) OCCURRENCE BASIS. The Workers' Compensation Policy and the Commercial General Liability required by this Agreement shall be provided on an occurrence rather than a claims-made basis. The

Professional Liability insurance policy must be on an occurrence basis or claims-made basis. If a claims-made basis, the coverage must respond to all claims reported within three (3) years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

(f) OBLIGATIONS. Compliance with the foregoing insurance requirements shall not relieve CONSULTANT, its employees, or its agents of liability from any obligation under a Section or any other portions of this Agreement.

SECTION 20. DISPUTE RESOLUTION.

- (a) In the event of a dispute related to any performance or payment obligation arising under this Agreement, the parties agree to exhaust COUNTY dispute resolution procedures prior to filing suit or otherwise pursuing legal remedies COUNTY dispute resolution procedures for proper invoice and payment disputes are set forth in Section 22.15, "Prompt Payment Procedures," Seminole County Administrative Code. Contract claims include all controversies, except disputes addressed by the "Prompt Payment Procedures," arising under this Agreement within the dispute resolution procedures set forth in Section 8.1539, "Contract Claims," Seminole County Administrative Code.
- (b) CONSULTANT agrees that it will file no suit or otherwise pursue legal remedies based on facts or evidentiary materials that were not presented for consideration in COUNTY dispute resolution procedures set forth in subsection (a) above of which CONSULTANT had knowledge and failed to present during COUNTY dispute resolution procedures.

(c) In the event that COUNTY dispute resolution procedures are

exhausted and a suit is filed or legal remedies are otherwise pursued,

the parties shall exercise best efforts to resolve disputes through

voluntary mediation. Mediator selection and the procedures to be

employed in voluntary mediation shall be mutually acceptable to the

parties. Costs of voluntary mediation shall be shared equally among the

parties participating in the mediation.

SECTION 21. REPRESENTATIVES OF COUNTY AND CONSULTANT.

(a) It is recognized that questions in the day-to-day conduct of

performance pursuant to this Agreement will arise. COUNTY shall

designate in writing and shall advise CONSULTANT in writing of one (1)

or more of its employees to whom all communications pertaining to the

day-to-day conduct of this Agreement shall be addressed. The designated

representative shall have the authority to transmit instructions,

receive information, and interpret and define COUNTY's policy and

decisions pertinent to the work covered by this Agreement.

(b) CONSULTANT shall at all times during the normal work week

designate or appoint one or more representatives of CONSULTANT who are

authorized to act on behalf of and bind CONSULTANT regarding all matters

involving the conduct of the performance pursuant to this Agreement and

shall keep COUNTY continually and effectively advised of such designa-

tion.

SECTION 22. ALL PRIOR AGREEMENTS SUPERSEDED. This document

incorporates and includes all prior negotiations, correspondence,

conversations, agreements, or understandings applicable to the matters

contained herein and the parties agree that there are no commitments,

agreements, or understandings concerning the subject matter of this Agreement that are not contained or referred to in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

SECTION 23. MODIFICATIONS, AMENDMENTS OR ALTERATIONS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

SECTION 24. INDEPENDENT CONTRACTOR. It is agreed that nothing herein contained is intended or should be construed as in any manner creating or establishing a relationship of co-partners between the parties or as constituting CONSULTANT (including its officers, employees, and agents) an agent, representative, or employee of COUNTY for any purpose, or in any manner, whatsoever. CONSULTANT is to be and shall remain forever an independent contractor with respect to all services performed under this Agreement.

SECTION 25. EMPLOYEE STATUS. Persons employed by CONSULTANT in the performance of services and functions pursuant to this Agreement shall have no claim to pension, workers' compensation, unemployment compensation, civil service, or other employee rights or privileges granted to COUNTY's officers and employees either by operation of law or by COUNTY.

SECTION 26. SERVICES NOT PROVIDED FOR. No claim for services furnished by CONSULTANT not specifically provided for herein shall be honored by COUNTY.

SECTION 27. PUBLIC RECORDS LAW. CONSULTANT acknowledges COUNTY's obligations under Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, to release public records to members of the public upon request. CONSULTANT acknowledges that COUNTY is required to comply with Article I, Section 24, Florida Constitution, and Chapter 119, Florida Statutes, in the handling of the materials created under this Agreement and that said statute controls over the terms of this Agreement.

SECTION 28. COMPLIANCE WITH LAWS AND REGULATIONS. In providing all services pursuant to this Agreement, CONSULTANT shall abide by all applicable statutes, ordinances, rules, and regulations pertaining to or regulating the provisions of such services, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules, or regulations shall constitute a material breach of this Agreement and shall entitle COUNTY to terminate this Agreement immediately upon delivery of written notice of termination to CONSULTANT.

SECTION 29. NOTICES. Whenever either party desires to give notice unto the other, it must be given by written notice, sent by registered or certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified. The place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this Section. For the present, the parties designate the following as the respective places for giving of notice, to-wit:

For COUNTY:

Public Works Department 520 W. Lake Mary Boulevard, Suite 200 Sanford, Florida 32773

For CONSULTANT:

Reynolds, Smith & Hills, Inc. 1000 Legion Place, Suite 800 Orlando, Florida 32801

SECTION 30. RIGHTS AT LAW RETAINED. The rights and remedies of COUNTY, provided for under this Agreement, are in addition and supplemental to any other rights and remedies provided by law.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the date below written for execution by COUNTY.

ATTEST:			REYNOLDS,	SMITH	AND	HILLS,	INC.
····	, Secretary	By:_	JAMES R. A	AVITABI ident	GE, E	P.E.,	
(CORPORATE	SEAL)	Date:_				***************************************	

[Balance of this page left intentionally blank; County attestation on page 25 of 25]

	SEMINOLE COUNTY, FLORIDA
	By:
MARYANNE MORSE	BOB DALLARI, Chairman
Clerk to the Board of	
County Commissioners of	Date:
Seminole County, Florida.	
For use and reliance	As authorized for execution by
of Seminole County only.	the Board of County Commissioners at their , 20
Approved as to form and	regular meeting.
legal sufficiency.	
County Attorney	
AEC/lpk	
11/13/09 12/10/09 12/24/09	

BOARD OF COUNTY COMMISSIONERS

Attachments:

ATTEST:

Exhibit A - Scope of Services

Exhibit B - Sample Work Order

Exhibit C - Rate Schedule

Exhibit D - Truth in Negotiations Certificate

P:\Users\Legal Secretary CSB\Purchasing 2009\Agreements\PS-4388 RS&H.docx

Exhibit A

Scope of Services

Continuous Professional Services Contract for Public Works Minor Projects Construction Cost Less than One Million Dollar

Seminole County is requesting continuing services for professional services as defined by Florida Statue 287.055 (CCNA). Under CCNA, work orders are currently limited by construction costs of \$1,000,000 or study costs of \$50,000.

It is Seminole County's desire to retain multiple consultants to perform, but not be limited to construction plan preparation and environmental and drainage permitting for minor projects. Some projects will require preliminary and final design phases and intensive sub-basin and environmental permitting.

The work orders under this contract will be inclusive of surveying, soil and geotechnical analysis, structure analysis, traffic analysis and any other analysis that would be needed to produce a set of construction plans. The projects will include but not limited to:

- Roadway Reconstruction Projects
- Roadway Traffic Safety Projects
- Sidewalk Projects
- Intersection Improvements
- Bridge replacements
- Stormwater/Water Quality Improvement Projects
- Stormwater Basin Studies
- Traffic signal design
- Traffic Studies
- Preliminary Engineering Studies
- ITS Services (includes fiber infrastructure as-built development, GPS services and fiber attachment agreements)
- Other Miscellaneous Roadway Improvements

Board of County Commissioners SEMINOLE COUNTY, FLORIDA

WORK ORDER

Work Order Number:

1aster Agreement Title:		Dated:
roject Title:	······································	
oject ince.		
onsultant:		
idress:		•
######################################		
Africa (E. 1814), Collis de la casa estada está traditiva da la filla de la casa de la casa de la casa de la c Casa de la casa de la c	tera stajena pereze	
TACHMENTS TO THIS WORK ORDER:		METHOD OF COMPENSATION:
] drawings/plans/specifications] scope of services		[] fixed fee basis [] time basis-not-to-exceed
] special conditions	•	[] time basis-limitation of funds
]		[] retainage shall be withheld
	en de la compansión de la	
ME FOR COMPLETION: The services to be provide	ed by the O	ONSULTANT shall commence upon evecution of
s Work Order by the parties, and shall be comple		
ork Order. Failure to meet the completion time sh	all be grou	nds for Termination of both the Work Order and
e Master Agreement for Default.		•
	n algegrafisk aut 1800	
ork Order Amount:		DOLLARS (\$)
		DOLDANG
3. "不是我们,我还会会会会,我们会会会会会,我们会会会会会会会会会会会会会会会会会会会会		
WITNESS WHEREOF, the parties hereto have ma	de and exe	cuted this Work Order on this day of
	de and exe nerein.	,
WITNESS WHEREOF, the parties hereto have ma	de and exe nerein.	(THIS SECTION TO BE COMPLETED BY THE COUNTY)
WITNESS WHEREOF, the parties hereto have ma	de and exe nerein.	,
WITNESS WHEREOF, the parties hereto have ma	de and exe nerein. By:	(THIS SECTION TO BE COMPLETED BY THE COUNTY)
WITNESS WHEREOF, the parties hereto have ma	nerein.	(THIS SECTION TO BE COMPLETED BY THE COUNTY)
WITNESS WHEREOF, the parties hereto have ma, 20, for the purposes stated have ma, restriction of the purposes stated have ma, restriction of the purposes stated have ma, restriction of the purposes stated have ma, secretary, Secretary	By:	(THIS SECTION TO BE COMPLETED BY THE COUNTY) Consultant
WITNESS WHEREOF, the parties hereto have ma	By:	(THIS SECTION TO BE COMPLETED BY THE COUNTY) Consultant , President
WITNESS WHEREOF, the parties hereto have ma	By:	(THIS SECTION TO BE COMPLETED BY THE COUNTY) Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma	By:	(THIS SECTION TO BE COMPLETED BY THE COUNTY) Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma	By:	(THIS SECTION TO BE COMPLETED BY THE COUNTY) Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma	By: Date:_ ****	Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma, for the purposes stated h TEST: , Secretary (CORPORATE SEAL) ***********************************	By:	Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma, for the purposes stated h TEST: , Secretary (CORPORATE SEAL) ***********************************	By: Date:_ ****	(THIS SECTION TO BE COMPLETED BY THE COUNTY) Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma, 20, for the purposes stated h TEST:, Secretary	By: Date:_ ****	Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma, for the purposes stated h TEST: , Secretary (CORPORATE SEAL) ***********************************	By: Date:_ ******	Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma	By: Date:_ ******	Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma	By: Date:_ ************************************	Consultant , President ***********************************
WITNESS WHEREOF, the parties hereto have ma, for the purposes stated h TEST: , Secretary (CORPORATE SEAL) ***********************************	By: Date:_ ************************************	Consultant , President ***********************************

WORK ORDER TERMS AND CONDITIONS

- a) Execution of this Work Order by the COUNTY shall serve as authorization for the CONSULTANT to provide, for the stated project, professional services as set out in the Scope of Services attached as Exhibit "A" to the Master Agreement cited on the face of this Work Order and as further delineated in the attachments listed on this Work Order.
- b) Term: This Work Order shall take effect on the date of its execution by the COUNTY and expires upon final delivery, inspection, acceptance, and release of the final payments and encumbrances of the last approved amount of this Work Order, unless terminated earlier in accordance with the termination provisions herein.
- c) The CONSULTANT shall provide said services pursuant to this Work Order, its Attachments, and the cited Master Agreement (as amended, if applicable) which is incorporated herein by reference as if it had been set out in its entirety.
- d) Whenever the Work Order conflicts with the cited Master Agreement, the Master Agreement shall prevail.
- e) METHOD OF COMPENSATION If the compensation is based on a:
 - (i) FIXED FEE BASIS, then the Work Order Amount becomes the Fixed Fee Amount and the CONSULTANT shall perform all work required by this Work Order for the Fixed Fee Amount. The Fixed Fee is an all-inclusive Firm Fixed Price binding the CONSULTANT to complete the work for the Fixed Fee Amount regardless of the costs of performance. The work to be performed by the CONSULTANT shall be based on the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project. In no event shall the CONSULTANT be paid more than the Fixed Fee Amount.
 - (ii) TIME BASIS WITH A NOT-TO-EXCEED AMOUNT, then the Work Order Amount becomes the Not-to-Exceed Amount and the CONSULTANT shall perform all the work required by this Work Order for a sum not exceeding the Not-to-Exceed Amount. In no event is the CONSULTANT authorized to incur expenses exceeding the not-to-exceed amount without the express written consent of the COUNTY. Such consent will normally be in the form of an Amendment to this Work Order. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement that are in effect on the date of the CONSULTANT'S price proposal for this project.
 - (iii) TIME BASIS WITH A LIMITATION OF FUNDS AMOUNT, then the Work Order Amount becomes the Limitation of Funds amount and the CONSULTANT is not authorized to exceed the Limitation of Funds amount without prior written approval of the COUNTY. Such approval, if given by the COUNTY, shall indicate a new Limitation of Funds amount. The CONSULTANT shall advise the COUNTY whenever the CONSULTANT has incurred expenses on this Work Order that equals or exceeds eighty percent (80%) of the Limitation of Funds amount. The CONSULTANT's compensation shall be based on the actual work required by this Work Order and the Labor Hour Rates established in the Master Agreement.
 - (iv) The CONSULTANT may utilize labor categories that are not included in the attached fee proposal, but that have been approved in the Master Agreement. If a substitution is necessary, the work shall be completed within the approved Time Basis (Not-To-Exceed or Limitation of Funds) or Fixed Fee Work Order Amount, and in no event shall the Work Order Amount be modified as a result of any changes in labor categories. The CONSULTANT shall submit a written request to the County for approval of any substitution prior to the utilization of any labor category for service, and the County's approval of any substitution must take place prior to submission of the invoice. Any approved labor category substitution shall be based on the prevailing labor categories and

their associated hourly rates established in the Master Agreement that are in effect on the date of the County's approval for any substitution.

- f) Payment to the CONSULTANT shall be made by the COUNTY in strict accordance with the payment terms of the referenced Master Agreement.
- g) It is expressly understood by the CONSULTANT that this Work Order, until executed by the COUNTY, does not authorize the performance of any services by the CONSULTANT and that the COUNTY, prior to its execution of the Work Order, reserves the right to authorize a party other than the CONSULTANT to perform the services called for under this Work Order; if it is determined that to do so is in the best interest of the COUNTY.
- h) The CONSULTANT shall sign the Work Order first and the COUNTY second. This Work Order becomes effective and binding upon execution by the COUNTY and not until then. A copy of this Work Order will be forwarded to the CONSULTANT upon execution by the COUNTY.

REYNOLDS, SMITH AND HILLS, INC. AVERAGE RATE BY CLASSIFICATION

(May 2009 - May 2010)

JOB CLASSIFICATION	Raw Rate		Total Acceptable Multiplier	Proposed Hourly Rate	
Project Officer, Director, QA/QC	\$	76.64	2.9	\$	222.24
Chief Engineer	\$	61.01	2.9	\$	176.93
Project Manager	\$	53.20	2.9	\$	154.28
Senior Engineer / Senior Planner	\$	53.02	2.9	\$	153.76
Senior Environmentalist / Senior Designer II	\$	40.45	2.9	\$	117.29
Engineer/Architect/Senior Designer	\$	36.78	2.9	\$	106.65
Engineering Intern/Designer	\$	28.28	2.9	\$	82.00
Admin/Clerical	\$	20.42	2.9	\$	59.22

"Truth in Negotiations" Certificate

This is to certify that, to the best of my knowledge and belief, the wage rates and other factual unit costs supporting the compensation (as defined in section 287.055 of the Florida Statues (otherwise known as the "Consultants' Competitive Negotiations Act" or CCNA) and required under CCNA subsection 287.055 (5) (a)) submitted to Seminole County Purchasing and Contracts Division, Contracts Section, either actually or by specific identification in writing, in support of PS-4388-09 * are accurate, complete, and current as of October 28, 2009 (Date)**.

This certification includes the wage rates and other factual unit costs supporting any Work Orders or Amendments issued under the Agreement between the Consultant and the County.

Firm: Reynolds Smith and Hills, Inc
Signature: Janus Routable
Name: James R. Avitabile
Title: Vice President
Date of execution***: Oct. 29, 2009

Revised 4-7-09. BLH

^{*} Identify the proposal, request for price adjustment, or other submission involved, giving the appropriate identifying number (e.g., PS No.).

^{**} Insert the day, month, and year when wage rates were submitted or, if applicable, an earlier date agreed upon between the parties that is as close as practicable to the date of agreement on compensation.

^{***} Insert the day, month, and year of signing.

(End of certificate)

SAMPLE MULTIPLIER COMPUTATION

	<u> </u>			
(a)	Direct Labor Cost	\$219,575.00	****	100%
(b)	GA & O Cost* Allowable GA & O Costs Direct Labor Cost	<u>\$285,565.00</u> \$219,575.00	Manage 144000	<u>130.05%</u>
(c)	Fringe Benefit Cost Fringe Benefits Cost Direct Labor Cost	\$60,264.00 \$219,575.00	****	<u>27.45%</u>
(d)	Total of (a), (b), & (c)	Combined Rate	errori errori	<u>257.50%</u>
(e)	Profit	10% of 257.50%	400g 3440	<u>25.75%</u>
(f)	Total Multiplier	(257.50% + 25.75%)/100	<u></u>	<u>2.83 M</u>

ACTUAL MULTIPLIER COMPUTATION

Multiplier Computation Breakdown Indicated As Percentage of Direct Labor Costs:

FIRM NAME:	Cost	Function	Actual	County CAP (If Required)
(a) Direct Labor Cost	\$ 171,335,996	100.00%	<u>100.00%</u>	<u>100.00%</u>
(b) GA & O Cost *				1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1 (1
Allowable GA & O Costs	\$180,651,562	divide (/)	105,44 %	
Direct Labor Cost	\$ 171,325,960			
(c) Fringe Benefit Cost		r		1.250(5)(1) 21.25(3)
Fringe Benefit Cost	\$85,7kd0,231	divide (/)	50.06 %	
Direct Labor Cost	\$171,325,966	Г		
MAX 162.00% (b+c)	Combined Rate	Sub-Total	155,50 %	<u>162.00%</u>
		Γ		12 (12.20) 1.12 (1.12) 1492 (1.20) 1.20 1493 (1.20) 1.20
(d) Total of (a) + Sub-Total (c)	Combined Rate	sum (+)	255.50 %	<u>262.00%</u>
(e) Profit (% of d) =	<u> </u>	<u>28''8C</u>	<u>%".8C</u>	<u>28.22%</u>
(MAX 11.00%)	(d)			(11.00%)
(f) Total Multiplier	Combined Rate	sum(+);	_ SU	
Total of [(d+e)/100]		divide (/)	<u>રુ. 84</u>	2.90

^{*} Based most recent year's audit 2008

I hereby certify that to the best of my knowledge that the above rates are true and accurate. If the "Total Multiplier" submitted by my firm is larger than Seminole County's maximum allowable multiplier of 2.90, then the County's multiplier of 2.90 will be used under this Agreement.

Date

Enclosure (1)

Revised 4-7-09. BLH

Page | 1



PS-4388-09/VFT Design of Minor Projects w/ Constructions Costs Less Thank \$1,000,001

ACTUAL MULTIPLIER COMPUTATION

Multiplier Computation Breakdown Indicated As Percentage of Direct Labor Costs:

FIRM NAME: Inwood Consulting Engineers, Inc.	Cost	Function	Actual	County CAP (II Required)
(a) Direct Labor Cost	\$ 2,459,148.00	100.00%	100.00%	100.00%
(b) GA&O Cost*	****			
Allowable GA&O Costs	\$ 2,419,506.00	divide (/)	98.39%	
Direct Labor Cost	\$ 2,459,148.00			
(c) Fringe Benefit Cost				
Fringe Benefit Cost	\$ 1,014,757.00	divide (/)	41.26%	
Direct Labor Cost	\$ 2,459,148.00			
MAX 162.00% (b+c)	Combined Rate	Sub-Total	139.65%	162.00%
(d) Total of (a) + Sub-Total (c)	Combined Rate	sum (+)	239.65%	262.00%
(e) Profit (% of d) =	239.65%	11%	26.36%	28.22%
(MAX 11.00%)	(d)			(11.00%)
(f) Total Multiplier	Combined Rate	sum(+);		
Total of [(d+e)/100]		divide(/)	2.66	2.90

*Based on most recent year's audit: 2008

I hereby certify that to the best of my knowledge the above rates are true and accurate. If the "Total Multiplier" submitted by my firm is larger than Seminole County's maximum allowable multiplier of 2.90 then the County's multipler of 2.90 will be used under this Agreement.

Indew DeWitt

Name & Title

Andrew DeWitt

Vice President

(a)	Direct Labor Cost	\$2,782,110	***************************************	<u>100%</u>
(b)	GA & O Cost* Allowable GA & O Costs	\$4,048,38 <u>8</u>	2000A	145.51%
	Direct Labor Cost	\$2,782,110		
(c)	Fringe Benefit Cost Fringe Benefits Cost	<u>\$1,319,698</u>	=	<u>47.43%</u>
	Direct Labor Cost	\$2,782,110		
(d)	Total of (a), (b), and (c)	Combined Rate	***************************************	292.94%
(e)	Profit Tatal Multiplica	11% of 292.94%	======================================	32.22% 3.25M
(f)	Total Multiplier	(29.294% + 32.22%) / 100		3.43iVI

ACTUAL MULTIPLIER COMPUTATION

Multiplier Computation Breakdown Indicated As Percentage of Direct Labor Costs:

FIRM NAME: PROFESSIONAL ENGINEERING CONSULTANTS, INC.	COST	FUNCTION	ACTUAL	County CAP (If Required)
(a) Direct Labor Cost	\$2,782,110	100.00%	100.00%	100.00%
(b) GA & O Cost*				
Allowable GA & O Costs	<u>\$4,048,388</u>	divide (/)	<u>145.51%</u>	
Direct Labor Cost	\$2,782,110			
(c) Fringe Benefit Cost				
Fringe Benefit Cost	<u>\$1,319,698</u>	divide (/)	<u>47.43%</u>	
Direct Labor Cost	<u>\$2,782,110</u>	_		
MAX 162.00% (b+c)	Combined Rate	Sub-Total	<u>192.94%</u>	162.00%
(d) Total of (a) + Sub-Total (c)	Combined Rate	sum (+)	292.94%	262.00%
(e) Profit (% of d) =	292.94%	11%	32.22%	28.22%
(MAX 11.00%)	(d)			(11.00%)
(f) Total Multiplier	Combined Rate	sum(+);	***************************************	
Total of [(d+e)/100]		divide (/)	3.25	2.90

^{*} Based on most recent year's audit 2008

I hereby certify that to the best of my knowledge that the above rates are true and accurate. If the "Total Multiplier" submitted by my firm is larger than Seminole County's maximum allow multiplier of $\underline{2.90}$, then the County's multiplier of $\underline{2.90}$ will be used under this

Kountt S. Horne - October 26, 2009

Based on FDOT Audit 2008

Page 3 of 5

SAMPLE MULTIPLIER COMPUTATION

	OAM LE MOLT	FEIER OOM OTTHOR		
(a)	Direct Labor Cost	\$219,575.00		<u>100%</u>
(b)	, morrabio of the order	<u>\$285,565.00</u> \$219,575.00	www.	<u>130.05%</u>
(c)	1 111190 20110110 4	<u>\$60,264.00</u> \$219,575.00		<u>27.45%</u>
(d)	Total of (a), (b), & (c)	Combined Rate	Maries Lands	<u>257.50%</u>
(e)	Profit	10% of 257.50%	=	<u>25.75%</u>
(f)	Total Multiplier	(257.50% + 25.75%)/100	=	<u>2.83 M</u>

ACTUAL MULTIPLIER COMPUTATION

Multiplier Computation Breakdown Indicated As Percentage of Direct Labor Costs:

Cost	Function	Actual	County CAP (If Required)
§ 271,753	100.00%	<u>100.00%</u>	<u>100.00%</u>
\$ 302,750 \$ 271,753	divide (/)	111.41 <u>%</u>	
§ 94,331 \$ 271,753	divide (/)	34.71 <u>%</u>	
Combined Rate	Sub-Total	146.12 <u>%</u>	<u>162.00%</u>
Combined Rate	sum (+)	246.12 <u>%</u>	<u>262.00%</u>
11 %	246.12 %	27.07 <u>%</u>	28.22%
(d)			(11.00%)
Combined Rate	sum(+); divide (/)	2.73	2.90
	\$ 271,753 \$ 302,750 \$ 271,753 \$ 94,331 \$ 271,753 Combined Rate Combined Rate	\$ 271,753	\$ 271,753

^{*} Based most recent year's audit 2008

I hereby certify that to the best of my knowledge that the above rates are true and accurate. If the "Total Multiplier" submitted by my firm is larger than Seminole County's maximum allowable multiplier of <u>2.90</u>, then the County's multiplier of <u>2.90</u> will be used under this Agreement.

Fursan Munjed, Principal	- 11/02/2009	
Name & Title	Date	Enclosure (1)
Revised 4-7-09. BLH	Page 1	Page 4 of 5

SAMPLE MULTIPLIER COMPUTATION

(a)	Direct Labor Cost	\$219,575.00	****	<u>100%</u>
(b)	GA & O Cost* Allowable GA & O Costs Direct Labor Cost	<u>\$285,565.00</u> \$219,575.00	- 18000 -	130.05%
(c)	Fringe Benefit Cost Fringe Benefits Cost Direct Labor Cost	\$60,264.00 \$219,575.00	=	<u>27.45%</u>
(d)	Total of (a), (b), & (c)	Combined Rate	=	<u>257.50%</u>
(e)	Profit	10% of 257.50%	*****	<u>25.75%</u>
(f)	Total Multiplier	(257.50% + 25.75%)/100		<u>2.83 M</u>

ACTUAL MULTIPLIER COMPUTATION

Multiplier Computation Breakdown Indicated As Percentage of Direct Labor Costs:

FIRM NAME:	Cost	Function	Actual	County CAP (If Required)
(a) Direct Labor Cost	<u>\$</u> 30,280,284	100.00%	100.00%	100.00%
(b) GA & O Cost *				
Allowable GA & O Costs	<u>\$</u> 39,408,178	divide (/)	130.14 <u>%</u>	
Direct Labor Cost	\$ 30,280,284			
(c) Fringe Benefit Cost				
Fringe Benefit Cost	\$ 15,883,121	divide (/)	52.45 <u>%</u>	
Direct Labor Cost	<u>\$</u> 30,280,284			
MAX 162.00% (b+c)	Combined Rate	Sub-Total	182.59 <u>%</u>	162.00%
(d) Total of (a) + Sub-Total (c)	Combined Rate	sum (+)	282.59 <u>%</u>	<u>262.00%</u>
(e) Profit (% of d) =	11.0 %	%	24.00 0/	38 330/
• • • •		<u> 76 </u>	31.08 <u>%</u>	28.22%
(MAX 11.00%)	(d)	aum(±):		(11.00%)
(f) Total Multiplier	Combined Rate	sum(+); divide (/)	2.42.0/	es de lei la decomples Sissi. 41 se se sa Awert estas
Total of [(d+e)/100]			3.13 %	2.90

^{*} Based most recent year's audit 2009

I hereby certify that to the best of my knowledge that the above rates are true and accurate. If the "Total Multiplier" submitted by my firm is larger than Seminole County's maximum allowable multiplier of <u>2.90</u>, then the County's multiplier of <u>2.90</u> will be used under this Agreement.

James Quitable Vice President 11/04/09
Name & Title Date

Enclosure (1)

Revised 4-7-09. BLH

Page | 1